

IN THE COURT OF CLAIMS OF OHIO

KYLE T. WEST :
83 S. Daisy St. Apt. #5 :
Pasadena, California 91107 : Case No. 2002-06405-AD

Plaintiff : MEMORANDUM DECISION

v. :

MONTGOMERY EDUCATION AND :
PRE-RELEASE CENTER :

Defendant :

: : : : : : : : : : : : : : : :

For Defendant: Gregory C. Trout, Chief Counsel
Department of Rehabilitation and
Correction
1050 Freeway North
Columbus, Ohio 43229

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{¶1} THE COURT FINDS THAT:

{¶2} 1) On June 28, 2002, plaintiff, Kyle T. West, filed a complaint against defendant, Montgomery Education and Pre-Release Center, alleging his headphones and walkman were lost while under defendant's control. Plaintiff seeks damages in the amount of \$38.30 for property loss. Plaintiff submitted the filing fee on July 15, 2002;

{¶3} 2) On September 6, 2002, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$38.30 for property loss.

{¶4} THE COURT CONCLUDES THAT

{¶5} 1) I find, by a preponderance of the evidence, negligence by defendant has been shown. *Baisden v. Southern Ohio*

Correctional Facility (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD;

{¶6} 2) Plaintiff has suffered damages in the amount of \$38.30, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

{¶7} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶8} IT IS ORDERED THAT:

{¶9} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶10} 2) Defendant (Montgomery Education and Pre-Release Center) pay plaintiff (Kyle T. West) \$63.30 and such interest as is allowed by law;

{¶11} 3) Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

RDk/laa
10/8
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