

[Cite as *Rivera v. Mansfield Correctional Inst.*, 2002-Ohio-6398.]

IN THE COURT OF CLAIMS OF OHIO

WILLIAM J. RIVERA, #332-435 :  
9896 Murray Ridge Road :  
Elyria, Ohio 44035 : Case No. 2001-12223-AD

Plaintiff : MEMORANDUM DECISION

v. :

MANSFIELD CORRECTIONAL :  
INSTITUTION :

Defendant :

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

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

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FINDINGS OF FACT

{¶1} Plaintiff, William J. Rivera, an inmate incarcerated at defendant, Mansfield Correctional Institution, stated his three rings and five books were packed by defendant’s personnel on May 21, 2001 and subsequently lost.

{¶2} Consequently, plaintiff filed this complaint seeking to recover \$220.00, the value of the three rings, plus \$114.25, the total purchase price of the five books. Plaintiff submitted evidence indicating he purchased the five books on January 30, 1999. Evidence has established plaintiff possessed three rings.

{¶3} In a totally unrelated matter, plaintiff contended defendant, on or about November 21, 2001, improperly withdrew \$16.06 from plaintiff’s inmate account. Plaintiff seeks additional recovery of the amount withdrawn from his account, plus reimbursement of the filing fee. Total damages claimed amount to \$375.31.

{¶4} Defendant admitted liability for the loss of two rings, the amount withdrawn from plaintiff's account, and the filing fee. Defendant denied liability for the loss of an additional ring and five books. Defendant has argued plaintiff has not offered sufficient proof to show he legitimately possessed the third gold ring. Furthermore, defendant contended plaintiff did not provide adequate evidence to indicate he owned the five books allegedly lost while under defendant's control. Defendant asserted plaintiff possessed twelve books which were returned to plaintiff.

{¶5} Plaintiff responded. Plaintiff insisted he owned five books in addition to the books which were recovered. Plaintiff maintained the five additional books were lost while under the custody of defendant's personnel. Plaintiff continued to assert he owned all three rings which were lost by defendant. Plaintiff related he is entitled to all damages claimed. Sufficient evidence has been submitted to show plaintiff owned all property items claimed and these items were lost while under defendant's control.

#### CONCLUSIONS OF LAW

{¶6} Plaintiff has proven defendant's negligence proximately caused all property loss claimed. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶7} As a trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239.

{¶8} Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. Reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶9} A plaintiff is competent to testify with respect to the true value of his property. *Gaiter v. Lima Correctional Facility* (1988), 61 Ohio Misc. 2d 293.

{¶10} The court finds defendant liable to plaintiff in the amount of \$275.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

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DANIEL R. BORCHERT  
Deputy Clerk

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WILLIAM J. RIVERA, #332-435	:	
9896 Murray Ridge Road	:	
Elyria, Ohio 44035	:	Case No. 2001-12223-AD
Plaintiff	:	ORDER OF ADMINISTRATIVE DETERMINATION
v.	:	
MANSFIELD CORRECTIONAL INSTITUTION	:	
Defendant	:	

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

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

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Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

IT IS ORDERED THAT:

- 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;
- 2) Defendant (Mansfield Correctional Institution) pay plaintiff (William J. Rivera) \$300.00 and such interest as is allowed by law;
- 3) Court costs are assessed against defendant.

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DANIEL R. BORCHERT  
 Deputy Clerk

