

[Cite as *Hill v. Southern Ohio Correctional Facility*, 2002-Ohio-7244.]

IN THE COURT OF CLAIMS OF OHIO

DARNELL D. HILL, #A203-099	:	
P.O. Box 45699	:	
Lucasville, Ohio 45699-0001	:	Case No. 2001-11324-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
SOUTHERN OHIO CORRECTIONAL FACILITY	:	
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, Darnell D. Hill, an inmate incarcerated at defendant, Southern Ohio Correctional Facility (SOCF), has alleged that on October 20, 2001, his personal property was "deliberately stolen and destroyed" by an employee of defendant identified as Officer Kelley.

{¶2} Plaintiff originally indicated his alleged destroyed property items included seven photographs, papers with listed addresses and phone numbers, a dictionary and two legal books. Plaintiff filed a complaint seeking to recovery \$125.00, the estimated value of the alleged destroyed property.

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{¶3} Plaintiff subsequently filed a motion to amend his complaint based on alleged acts plaintiff asserted occurred on December 14, 2001. Plaintiff alleged defendant's employee, Officer T.A. Kelley, during a shakedown search, damaged, stole or destroyed several property items stored in plaintiff's cell. Plaintiff alleged his television set and radio were damaged by Officer Kelley. Also, plaintiff alleged Officer Kelley stole his sweatshirt and three t-shirts. Furthermore, plaintiff alleged his gym shoes and trial transcript were destroyed by Officer Kelley. Plaintiff claimed damages of \$108.00 for his television set, \$28.00 for his radio, \$7.50 for the sweatshirt, \$5.00 for the t-shirts, \$75.00 for his gym shoes and \$250.00 for the trial transcript. Plaintiff's amended complaint was based on acts which allegedly occurred after his original complaint was filed. Plaintiff's motion to amend his complaint was granted.

{¶4} Defendant denied any liability in this matter. Defendant has asserted plaintiff has failed to prove his property was stolen, damaged or destroyed by Officer Kelley. Defendant has contended plaintiff did not present evidence showing his property was handled by Officer Kelley on October 20, 2001 or December 14, 2001.

{¶5} On October 3, 2002, plaintiff filed a third motion for summary judgment in this matter. Plaintiff also filed a response to defendant's investigation report. Plaintiff did not provide any evidence other than his own assertion to establish his property was stolen, destroyed or damaged by Officer Kelley.

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CONCLUSIONS OF LAW

{¶6} This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that defendant does not have the liability of an insurer (i.e., is not liable without fault) with respect to inmate property, but that it does have the duty to make "reasonable attempts to protect, or recover" such property.

{¶7} Although not strictly responsible for a prisoner's property, defendant had at least the duty of using the same degree of care as it would use with its own property. *Henderson v. Southern Ohio Correctional Facility* (1979), 76-0356-AD.

{¶8} Plaintiff has the burden of proving, by a preponderance of the evidence, that he suffered a loss and that this loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD.

{¶9} Plaintiff must produce evidence which affords a reasonable basis for the conclusion defendant's conduct is more likely than not a substantial factor in bringing about the harm. *Parks v. Department of Rehabilitation and Correction* (1985), 85-01546-AD.

{¶10} Plaintiff has failed to prove, by a preponderance of the evidence, he sustained any loss as a result of any negligence on the part of defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

DANIEL R. BORCHERT
Deputy Clerk

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