

[Cite as *Dandy-Jones v. Hocking Correctional Facility*, 2002-Ohio-4838.]

IN THE COURT OF CLAIMS OF OHIO

DEBORAH S. DANDY-JONES :  
P.O. Box 83078 :  
Columbus, Ohio 43203 : Case No. 2001-08790-AD

Plaintiff : MEMORANDUM DECISION

v. :

HOCKING 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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{¶1} Plaintiff, Deborah S. Dandy-Jones, stated she mailed a money order she had purchased in the amount of \$177.95 to defendant, Hocking Correctional Facility on or about January 3, 2001. The money order was intended for use by plaintiff's husband, Henry G. Jones, an inmate incarcerated at defendant's facility. The money order represented the total price of a typewriter Henry G. Jones wanted to purchase from a company designated Music-By-Mail, an approved vendor of merchandise to the inmates of defendant's institution. The money order named allegedly Music-By-Mail as payee. Plaintiff asserted that after defendant's personnel received the money order, they placed the money order along with an order form for the typewriter in an envelope provided by Henry G. Jones. Plaintiff stated the envelope and enclosed contents were

posted by defendant's staff to Music-By-Mail. Plaintiff related the typewriter was shipped and arrived at defendant's facility in late March, 2001. However, the typewriter was not forwarded to Henry G. Jones, because the typewriter was characterized as impermissible property pursuant to defendant's internal policy.

{¶2} Since plaintiff asserted Henry G. Jones was not allowed to retain the typewriter, he decided to exchange the typewriter with Music-By-Mail for approved goods. According to plaintiff, an order form for substitute merchandise was placed in a box with the typewriter and shipped back to Music-By-Mail. Plaintiff asserted Music-By-Mail was unable to fill the entire substitute order and sent a check to defendant's facility naming Henry G. Jones as payee. The check represented the difference in the purchase price between the typewriter and substitute goods shipped to defendant's institution intended for Henry G. Jones. According to plaintiff, when the check from Music-By-Mail arrived at defendant's institution, Henry G. Jones was told the check amount could not be deposited in his inmate account because it was not sent from an approved source and therefore not compliant with defendant's internal regulations. Plaintiff explained the check was sent back to Music-By-Mail by defendant's personnel. Additionally, plaintiff maintained Henry G. Jones was not permitted to retain the substitute goods shipped by Music-By-Mail. Seemingly, Henry G. Jones was told by defendant's employee that Music-By-Mail was not an authorized vendor. Consequently, plaintiff stated defendant ordered Henry G. Jones to authorize the mail out of the substitute items to plaintiff. However, plaintiff related Henry G. Jones was permitted to keep some substitute merchandise identified in the complaint as cassette tapes.

{¶3} Plaintiff has essentially contended she was given contradictory advice from defendant's staff regarding procedures for inmate receipt of merchandise, methods of payment for goods, approved sources for receipt of funds into inmate accounts and

approved vendors. Plaintiff has contended defendant's decision involving the typewriter, substitute goods, and refund check were either violative of defendant's policy or not addressed in any of defendant's written regulations. Plaintiff asserted defendant's staff acted in an arbitrary manner concerning choices about Henry G. Jones privilege to receive property under the facts described by plaintiff. Plaintiff has alleged she was damaged by defendant's acts. She has indicated her damages consist of the following: "eleven hours loss @ \$20.00/hr = \$220.00; additional shipping and handling \$24.00; long distance calls to Music-By-Mail \$56.00; long distance calls to Hocking Correctional Facility staff \$18.00; collect call charges from my husband to discuss this matter \$12.00; certified mail through the U.S. Post Office for this matter \$15.00; AIWA tape player \$41.95; Sony headphones \$27.95; adapter \$5.95; fan \$7.95; cleaner \$2.95; calculator \$5.95.

{¶4} Defendant filed an investigation report denying any liability in this matter. Defendant contended plaintiff has failed to prove she suffered any monetary loss for which defendant may be held liable. Defendant insisted plaintiff was not damaged by any negligence on the part of its personnel.

{¶5} Defendant offered the following account of the incidents forming the basis of this claim.

{¶6} Defendant investigated plaintiff's contentions involving the purchase of a typewriter intended for her husband. Defendant denied receiving a money order from plaintiff for the purchase price of the typewriter. Defendant explained plaintiff arranged for the purchase of the typewriter by sending funds to Music-By-Mail and having the typewriter shipped to Henry G. Jones at defendant's facility. Defendant maintained this method of purchase is "totally outside the guidelines established for receiving items from an approved vendor." Furthermore, defendant related Henry G. Jones was not permitted to keep the typewriter because electric typewriters, such as the one shipped from Music-By-Mail,

constituted impermissible property pursuant to defendant's departmental policy. Defendant denied giving Henry G. Jones prior permission to receive an electric typewriter from Music-By-Mail and purchased with funds provided directly to the vendor by plaintiff. Defendant denied Music-By-Mail was an approved vendor of typewriters.

{¶7} Additionally, defendant investigated the circumstances regarding the order and receipt of substitute merchandise from Music-By-Mail as well as the matter of the refund check issued in Henry G. Jones' name. Defendant stated its mail room staff received a refund check through the mail from Music-By-Mail in Henry G. Jones' name. Defendant indicated a determination was made that Henry G. Jones had not sent any funds to Music-By-Mail and consequently was prohibited from receiving a refund check from an entity not on his visiting list. Therefore, pursuant to internal policy, the refund check was returned to sender at Henry G. Jones' expense. Subsequently, a package from Music-By-Mail addressed to Henry G. Jones was received at defendant's mail room. According to defendant, Henry G. Jones had received a credit from Music-By-Mail from the typewriter refund/exchange and substitute merchandise was ordered and shipped. This substitute merchandise contained in the package received at defendant's mail room included a calculator, head cleaning kit, radio, headphones, fan, adapter, and several cassette tapes. Defendant explained Henry G. Jones was informed he would be permitted to keep the cassette tapes, but was ordered to return the other items because these goods were neither shipped from an approved vendor nor purchased with funds from an approved source. Items such as the calculator and head cleaning kit were considered contraband and therefore, impermissible. All items with the exception of the cassette tapes were returned to Music-By-Mail at Henry G. Jones' expense.

{¶8} Defendant has asserted plaintiff has failed to prove she suffered any loss as a result of any negligence on the part of

defendant. Defendant argued it did not owe plaintiff a duty of care and consequently, plaintiff has not established any set of facts entitling her to the relief sought. Defendant implied plaintiff's own acts of not following institution policy and regulations caused her losses. Defendant has urged, based on the evidence presented, that plaintiff's claim be denied.

{¶9} Defendant submitted a statement from Lt. Riley, the Mail Room Supervisor at the Hocking Correctional Facility. Riley's statement addressed his recollection of the events regarding the receipt of goods from Music-By-Mail intended for Henry G. Jones. Riley related the institution mail room received a typewriter on April 9, 2001 from Music-By-Mail addressed to Henry G. Jones. According to Riley the mail room officer attempted to verify if Henry G. Jones had ordered anything from Music-By-Mail. Records indicated inmate Jones had not ordered or paid for any items from Music-By-Mail. Riley reasoned an unidentified party must have paid for the typewriter by some method and arranged for the typewriter to be shipped to inmate Jones. Riley denied the institution mail room personnel received "a money order addressed to Music-By-Mail in Inmate Jones' name as claimed by Ms. Dandy-Jones." Riley further denied knowledge of a money order obtained by plaintiff for the purchase of a typewriter intended for Henry G. Jones. Additionally, Riley stated electric typewriters such as the one received on April 9, 2001 are impermissible property in accordance with defendant's written policy. Finally, in reference to the electric typewriter, Riley explained Music-By-Mail is not an approved vendor for typewriters, therefore the items were returned at Henry G. Jones' expense.

{¶10} Lt. Riley indicated the institution mail room received another package on June 11, 2001 from Music-By-Mail addressed to Henry G. Jones. This package contained a cassette player, headphones, cassette head cleaner, adapter, fan, calculator, and several cassette tapes. Riley maintained the package received on

June 11, 2001 presented two of the same problems associated with receipt of the typewriter; the mail room staff could not verify the source of the funds to purchase the goods and the bulk of the items received came from an unapproved vendor. After consultation on the matter, Riley stated Henry G. Jones was permitted to retain the cassette tapes, but was ordered to return all other items contained in the package to the sender, Music-By-Mail. Riley asserted the remaining items were mailed out on July 9, 2001.

{¶11} In a connected matter, Riley indicated the institution mail room received a check on June 12, 2001 from Music-By-Mail naming Henry G. Jones as payee. Riley explained mail room personnel concluded inmate Jones had not forwarded any money from his account to Music-By-Mail. Therefore, Henry G. Jones was ordered to return the check to Music-By-Mail, since the company was not an approved source for receipt of funds.

{¶12} Plaintiff filed a response insisting she should receive all damages claimed, \$437.70. Plaintiff seemingly indicated the substitute goods for the typewriter were not returned, but duplicate items were purchased and issued to Henry G. Jones. Plaintiff reasserted she was informed and assured by several of defendant's employees that proper procedure was followed in the order, purchase, and shipping of goods from Music-By-Mail to defendant's institution. Furthermore, plaintiff asserted neither she nor Henry G. Jones violated defendant's policy in the method of ordering, purchasing, and receiving goods from Music-By-Mail. Concomitantly, plaintiff contended she was never informed of any policy restrictions regarding the purchase of goods for inmates from outside vendors. At the least, plaintiff has argued defendant is inconsistent with the enforcement of its policy and regulations.

{¶13} After reviewing all documentation, the court concludes any damages claimed such as work loss, postage and telephone calls related to the prosecution of plaintiff's claim are denied. See *Hamman v. Witherstrine* (1969), 20 Ohio Misc. 77. Additionally,

assuming plaintiff was assured by defendant's staff she was following proper policy and procedure in ordering and purchasing goods, plaintiff is not entitled to recover any damages directly related to her reliance upon these assurances. Plaintiff has asserted a claim based on a theory of promissory estoppel. Although plaintiff may have asserted promissory estoppel, a general rule in this state is that the doctrine of promissory estoppel may not apply against the state or its agencies when the act or omission relied upon was performed in the exercise of the state's governmental function. *Sun Refining & Marketing Co. v. Brennan* (1987), 31 Ohio St. 3d 306. The general rule applies to the instant situation. Finally, the state cannot be sued for the exercise of any executive planning function involving the making of a policy decision characterized by a high degree of discretion. *Reynolds v. State* (1984), 14 Ohio St. 3d 68. *Reynolds, id.* applies to plaintiff's action. Consequently, plaintiff's claim is denied.

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

{¶15} IT IS ORDERED THAT:

{¶16} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶17} 2) Court costs are assessed against plaintiff.

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DANIEL R. BORCHERT  
Deputy Clerk