

[Cite as *Alexander v. Belmont Corr. Inst.*, 2003-Ohio-106.]

IN THE COURT OF CLAIMS OF OHIO

THEODORE M. ALEXANDER, #409-183:

P.O. Box 540

St. Clairsville, Ohio 43950 : Case No. 2002-07193-AD

Plaintiff : MEMORANDUM DECISION

v. :

BELMONT 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} 1) Plaintiff, Theodore M. Alexander, an inmate incarcerated at defendant, Belmont Correctional Institution, maintained he placed a mail order for a pair of shoes from a company identified as Union Supply. Plaintiff asserted the shoes arrived at defendant's institution on April 8, 2002. Plaintiff alleged the shoes were subsequently lost while under the control of defendant's mail room staff.

{¶2} 2) Consequently, plaintiff filed this complaint seeking to recover \$50.00, the purchase price of the alleged lost shoes, plus \$25.00 for filing fee reimbursement.

{¶3} 3) Defendant acknowledged the shoes were delivered to the Belmont Correctional Institution via the United Parcel Service

and were received by defendant's mail room personnel. Defendant admitted the shoes were misplaced, but were later located. Defendant explained the shoes were sent by plaintiff to his home address. Defendant admitted liability for the \$25.00 filing fee.

{¶4} 4) Plaintiff filed a response. Plaintiff contended he was not, "permitted a timely opportunity to send the shoes home." Plaintiff requested full reimbursement for the purchase price of the shoes. Plaintiff indicated the shoes were purchased for his son and the shoes were not received by his son. Plaintiff asserted he had not received the shoes as of November 17, 2002.

CONCLUSIONS OF LAW

{¶5} 1) 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.

{¶6} 2) 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.

{¶7} 3) Plaintiff has failed to prove, by a preponderance of the evidence, that the shoes he purchased were permanently lost by defendant's personnel. Plaintiff has failed to establish the shoes were not mailed to him home address.

{¶8} 4) The court finds defendant liable to plaintiff in the amount of 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.

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

{¶10} IT IS ORDERED THAT:

{¶11} 1) Plaintiff's claim is GRANTED in part and DENIED in

part;

{¶12} 2) Defendant (Belmont Correctional Institution) pay plaintiff (Theodore M. Alexander) \$25.00 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
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