

IN THE COURT OF CLAIMS OF OHIO

CLIFTON MAYS, #A342-899	:	
P.O. Box 788	:	
Mansfield, Ohio 44901	:	Case No. 2002-07223-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} 1) Plaintiff, Clifton Mays, an inmate incarcerated at defendant, Mansfield Correctional Institution, has alleged that on or about November 2, 2001, his television set was confiscated by defendant's personnel and subsequently destroyed without proper authorization.

{¶2} 2) Consequently, plaintiff filed this complaint seeking to recover \$178.25, the replacement cost of a new television set, plus \$25.00 for filing fee reimbursement.

{¶3} 3) Evidence has established defendant's staff member confiscated plaintiff's television set on November 2, 2001. The television was confiscated from the cell of an inmate identified as Robbins, #269-188. Numbers on the television set were scratched

out and more than one set of inmate numbers appeared on the appliance. Inmate Robbins identified the television set as plaintiff's property. Because of the number alterations, ownership of the set could not be conclusively traced to plaintiff. The confiscated television set was logged as contraband by defendant. Defendant's hearing officer declared the television set contraband and ordered the set destroyed. Defendant has asserted the set was destroyed in accordance with AR 5120-9-55 which requires a forfeiture order from a local common pleas court sanctioning the contraband destruction. Defendant established the television set was destroyed under proper court ordered authority.

{¶4} 4) Plaintiff filed a response. Plaintiff stated defendant knew plaintiff was the proper owner of the television set. Plaintiff asserted defendant had no authority to destroy his television set and defendant should have either returned the confiscated property or permitted the property to be mailed out of the institution.

CONCLUSIONS OF LAW

{¶5} 1) This court has previously held it does not have jurisdiction over decisions of the Rules Infraction Board of the Department of Rehabilitation and Correction. *Chatman v. Dept. of Rehabilitation and Correction* (1985), 84-06323-AD; *Ryan v. Chillicothe Institution* (1981), 81-05181-AD; *Rierson v. Department of Rehabilitation* (1981), 80-00860-AD. The exception to this general rule was stated in *Cassano v. Lucasville Prison* (1985), 84-09411-AD: "Once a decision has been made, the prison authorities must carry out the regulation with the proper care."

{¶6} 2) An inmate plaintiff may recover the value of confiscated property destroyed by agents of defendant when those agents acted without authority or right to carry out the property destruction. *Berg v. Belmont Correctional Institution* (1998), 97-09261-AD.

{¶7} 3) However, in the instant claim, defendant acted with

court ordered authority to destroy plaintiff's confiscated property. An inmate plaintiff is barred from recovering the value of confiscated property formally forfeited and subsequently destroyed pursuant to a properly obtained court order. *Dodds v. Department of Rehabilitation and Correction* (2000), 2000-03603-AD. *Cepec v. Dept. of Rehabilitation and Correction* (2001), 2001-03071-AD. Plaintiff's claim for his destroyed confiscated property is dismissed.

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

{¶9} IT IS ORDERED THAT:

{¶10} 1) Plaintiff's claim is DISMISSED with prejudice;

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

DANIEL R. BORCHERT
Deputy Clerk

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