

[Cite as *Smith v. Allen Correctional Inst.*, 2003-Ohio-114.]

IN THE COURT OF CLAIMS OF OHIO

HOWARD SMITH, #A225-432 :
P.O. Box 4501 :
Lima, Ohio 45802 : Case No. 2002-08645-AD

Plaintiff : MEMORANDUM DECISION

v. :

ALLEN 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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{¶1} THE COURT FINDS THAT:

{¶2} 1) On September 20, 2002, plaintiff, Howard Smith, filed a complaint against defendant, Allen Correctional Institution, alleging his gym shoes were destroyed by defendant's personnel. Plaintiff seeks damages in the amount of \$65.83 for property loss. Plaintiff submitted the filing fee with his complaint;

{¶3} 2) On November 27, 2002, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$65.83 for property loss, plus \$25.00 for filing fee reimbursement.

{¶4} THE COURT CONCLUDES THAT:

{¶5} 1) I find, by a preponderance of the evidence,

negligence by defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD;

{¶6} 2) Plaintiff has suffered damages in the amount of \$65.83, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

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

{¶8} IT IS ORDERED THAT:

{¶9} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶10} 2) Defendant (Allen Correctional Institution) pay plaintiff (Howard Smith) \$90.83 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
12/18
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