IN THE COURT OF CLAIMS OF OHIO

FREDERICK FUTRELL, #359-010   :
P.O. Box 45699
Lucasville, Ohio 45699   :   Case No. 2002-07932-AD

    Plaintiff   :   MEMORANDUM DECISION

        v.   :

DEPARTMENT OF REHABILITATION   :
AND CORRECTION

                   :

    Defendant

        : : : : : : : : : : : : : : : : : : :

For Defendant: Gregory C. Trout, Chief Counsel
               Department of Rehabilitation and
                Correction
               1050 Freeway North
               Columbus, Ohio 43229

        : : : : : : : : : : : : : : : : : :

{¶1} THE COURT FINDS THAT:

{¶2} 1) On August 29, 2002, plaintiff, Frederick Futrell, filed a complaint against defendant, Department of Rehabilitation and Correction, alleging his property was lost while under the control of defendant's staff. Plaintiff seeks damages in the amount of $101.20 for property loss, plus $25.00 for filing fees. Plaintiff submitted the filing fee on September 25, 2002;

{¶3} 2) On January 16, 2003, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of $126.20.

{¶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 $101.20, 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 (Department of Rehabilitation and Correction) pay plaintiff (Frederick Futrell) $126.20 and such interest as is allowed by law;

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

                                        DANIEL R. BORCHERT
                                        Deputy Clerk

RDK/laa
3/4
Filed 3/14/03
Jr. Vol. 736, Pg. 45
Sent to S.C. reporter 3/25/03