

[Cite as *Wooden v. Richland Correctional Inst.*, 2003-Ohio-1677.]

IN THE COURT OF CLAIMS OF OHIO

PATRICK WOODEN, #334-256 :
P.O. Box 8107 :
Mansfield, Ohio 44901-8107 : Case No. 2002-08408-AD

Plaintiff : MEMORANDUM DECISION

v. :

RICHLAND CORRECTIONAL INST. :

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} Plaintiff, Patrick Wooden, an inmate incarcerated at defendant, Richland Correctional Institution, asserted that on or about May 7, 2002, he was ordered to report to defendant's mailroom to receive a pair of Nike gym shoes which had been mailed from the Nike Corporation. Plaintiff explained the shoes were sent as replacements for another pair of shoes he had sent back to Nike which were under warranty. Plaintiff indicated he was told by defendant's mailroom officer, Ms. Harris, he could not have possession of the replacement shoes because the value of these shoes obviously exceeded \$200.00. Plaintiff stated he was ordered by Officer Harris to sign a cash withdrawal form authorizing the mail out of the shoes to a designated address. Plaintiff related

he refused to authorize any mail out, and consequently, Officer Harris destroyed the shoes. Plaintiff filed this complaint seeking to recover \$200.00 for property loss, \$10.00 for postage, and \$25.00 for filing fee reimbursement. Plaintiff asserted he sustained these damages as a result of negligence on the part of defendant's staff member in having his shoes destroyed without proper authority.

{¶2} Defendant filed an investigation report admitting liability for plaintiff's property loss, but disputing his damage claim. Defendant acknowledged plaintiff sent a pair of gym shoes to Nike for replacement, but Nike refused to send a replacement pair or furnish credit. These shoes were returned to plaintiff. According to defendant's records, plaintiff possessed a pair of Nike shoes when he arrived at defendant's institution on October 10, 2001. These shoes were valued at \$75.00. Plaintiff's property file has shown he has possessed several pair of gym shoes all valued at \$75.00 or less. Therefore, defendant has asserted plaintiff's damage claim for property loss should be limited to \$75.00.

{¶3} Plaintiff filed a response insisting the destroyed shoes were properly valued at \$200.00. Plaintiff asserted the shoes were sent to defendant's institution by his family and the purchase price of the shoes was in excess of \$200.00. Plaintiff did not submit a receipt for the purchase price of the shoes.

CONCLUSIONS OF LAW

{¶4} 1) Negligence has been shown in respect to the loss of plaintiff's gym shoes. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶5} 2) The assessment of damages is a matter within the province of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42.

{¶6} 3) Where the existence of damage is established, the

evidence need only tend to show the basis for the computation of damages to a fair degree of probability. *Brewer v. Brothers* (1992), 82 Ohio App. 3d 148. Only reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶7} 4) As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239. Defendant is liable to plaintiff in the amount of \$75.00, 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.

{¶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 GRANTED and judgment is rendered in favor of the plaintiff;

{¶11} 2) Defendant (Richland Correctional Institution) pay plaintiff (Patrick Wooden) \$100.00 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk