

IN THE COURT OF CLAIMS OF OHIO

REGINALD MCCAIN, #277-223	:	
P.O. Box 45699	:	
Lucasville, Ohio 45699	:	Case No. 2002-08912-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
OHIO DEPARTMENT OF	:	
REHABILITATION AND CORRECTION	:	
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) On or about February 19, 2002, employees of defendant's Ohio State Penitentiary (OSP), destroyed numerous items of personal property which belonged to plaintiff, Reginald McCain, an inmate.

{¶2} 2) Plaintiff explained the property items destroyed included the following: three photo albums containing two-hundred photographs, television set, radio, lamp, fan, clock, headphones, cassette tapes, blanket, pajamas, long underwear, robe, gym shoes, boots, sweat suit, t-shirts, gym shorts, socks, shower shoes, undershorts, towels, and wash cloths.

{¶3} 3) Plaintiff filed this complaint seeking to recover \$1,666.00 for the loss of his photographs, plus \$834.00 for the

loss of the remainder of his property. Plaintiff submitted the filing fee with the complaint.

{¶4} 4) On January 23, 2003, defendant submitted an investigation report admitting liability but asserting his lost property had the value of \$834.00.

{¶5} 5) On March 6, 2003, plaintiff filed a motion wherein he agreed \$834.00 was an appropriate amount for his lost property.

CONCLUSIONS OF LAW

{¶6} 1) Negligence has been shown in respect to the loss of all property claimed including photographs. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶7} 2) 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.

{¶8} 3) Defendant is liable to plaintiff in the amount of \$834.00, 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.

{¶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 motion is deemed a response to defendant's investigation report;

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

{¶13} 3) Defendant (Department of Rehabilitation and

Correction) pay plaintiff (Reginald McCain) \$859.00 and such interest as is allowed by law;

{¶14} 4) Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
3/13
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