

[Cite as *Hughes v. Trumbull Correctional Inst.*, 2003-Ohio-1923.]

IN THE COURT OF CLAIMS OF OHIO

TELLY A. HUGHES, #275-015	:	
878 Coitsville-Hubbard Road	:	
Youngstown, Ohio 44505	:	Case No. 2002-09943-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
TRUMBULL 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} Plaintiff, Telly A. Hughes, an inmate incarcerated at defendant, Trumbull Correctional Institution, was transferred to a segregation unit on September 2, 2002. Plaintiff indicated his personal property, including his television set, was loaded on a cart incident to the transfer. According to plaintiff, the cart containing his property was pushed by defendant's employee, Correctional Officer Dunn. Plaintiff explained his television set fell from the cart onto the concrete floor as Correctional Officer Dunn was pushing the cart. The television set was allegedly damaged beyond repair as a result of falling from the cart onto the floor of defendant's facility. Consequently, plaintiff filed this complaint seeking to recover \$250.00, the stated replacement cost of a new television, plus \$25.00 for filing fee reimbursement. Plaintiff has contended his electronic device was damaged as a

proximate cause of negligence on the part of defendant's personnel in transporting his property.

{¶2} Defendant filed an investigation report admitting liability for the damage to plaintiff's television set. However, defendant has asserted plaintiff overstated his damage claim. Television sets sell in the institution commissary at \$143.00 apiece. Defendant maintained plaintiff's damages should be limited to \$143.00 for property loss.

{¶3} Plaintiff filed a response insisting his television set was worth \$217.77. Plaintiff submitted a copy of a title for his television set issued on November 21, 2001. This copy of title does list the value of the television set.

#### CONCLUSIONS OF LAW

{¶4} 1) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that defendant does not have the liability of an insurer (i.e., is not liable without fault with respect to inmate property, but that it does have the duty to make "reasonable attempts to protect, or recover" such property.

{¶5} 2) Although not strictly responsible for a prisoner's property, defendant had at least the duty of using the same degree of care as it would use with its own property. *Henderson v. Southern Ohio Correctional Facility* (1979), 76-0356-AD.

{¶6} 3) Plaintiff has the burden of proving, by a preponderance of the evidence, that he suffered a loss and that this loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD.

{¶7} 4) Plaintiff has proven a causal connection between damage to his television and the breach of duty owed by defendant in regard to protecting inmate property under its control. *Talanca v. London Correctional Institution* (2003), 2002-07665-AD.

{¶8} 5) In regard to plaintiff's property damage, 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.

{¶9} 6) As a 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.

{¶10} 7) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. 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.

{¶11} 8) A plaintiff is competent to testify with respect to the true value of his property. *Gaiter v. Lima Correctional Facility* (1988), 61 Ohio Misc. 2d 293. Plaintiff claimed his television set was worth \$217.77. Defendant stated a new replacement set sells for \$143.00.

{¶12} 9) The court finds defendant liable to plaintiff in the amount of \$143.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

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

{¶14} IT IS ORDERED THAT:

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

{¶16} 2) Defendant (Trumbull Correctional Institution) pay plaintiff (Telly A. Hughes) \$168.00 and such interest as is allowed by law;

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

DANIEL R. BORCHERT  
Deputy Clerk