

[Cite as *Curry v. Ohio State Penitentiary*, 2003-Ohio-2169.]

IN THE COURT OF CLAIMS OF OHIO

GREGORY CURRY :
Plaintiff :
v. : CASE NO. 2002-10259-AD
OHIO STATE PENITENTIARY : MEMORANDUM DECISION
Defendant :

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{¶1} THE COURT FINDS THAT:

{¶2} 1) On November 22, 2002, plaintiff, Gregory Curry, filed a complaint against defendant, Ohio State Penitentiary, alleging his books were lost by defendant's personnel. Plaintiff seeks damages in the amount of \$25.00 for the loss of the books, \$6.00 for postage and copying costs, plus \$25.00 for filing fees. Plaintiff submitted the filing fee with his complaint;

{¶3} 2) On February 27, 2003, defendant filed an investigation report admitting liability, but disputing plaintiff's damage claim. Defendant contended plaintiff is not entitled to recover postage and copying costs. Additionally, defendant asserted one of the lost publications with a \$15.00 value was actually free, and therefore, plaintiff suffered no monetary loss for this publication;

{¶4} 3) On March 13, 2003, plaintiff filed a response insisting he should recover damages for the loss of a free publication.

{¶5} THE COURT CONCLUDES THAT:

{¶6} 1) Plaintiff is not entitled to expenses, i.e., copying costs, related to the prosecution of this case. *Hamman v. Witherstrine* (1969), 20 Ohio Misc. 77. 252 N.E. 2d 196;

{¶7} 2) 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;

{¶8} 3) Plaintiff has suffered damages in the amount of \$20.00, 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 claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶12} 2) Defendant (Ohio State Penitentiary) pay plaintiff (Gregory Curry) \$45.00 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk

Order cc:

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Plaintiff, Pro se

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