

[Cite as *Mobley v. S. Ohio Correctional Facility*, 2003-Ohio-2445.]

IN THE COURT OF CLAIMS OF OHIO

DARRYL E. MOBLEY :

Plaintiff :

V. :

CASE NO. 2002-04836-AD

SOUTHERN OHIO CORRECTIONAL FACILITY :

## MEMORANDUM DECISION

Defendant

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## FINDINGS OF FACT

{¶1} 1) On or about April 11, 2002, plaintiff, Darryl E. Mobley, an inmate incarcerated at defendant, Southern Ohio Correctional Facility, was transferred from the facility's general population to a segregation unit.

{¶2} 2) Plaintiff's personal property was inventoried, packed, and delivered into defendant's custody incident to the transfer.

{¶3} 3) Plaintiff has alleged his television remote control was totally destroyed while under defendant's care. He has consequently filed this complaint seeking to recover \$45.00, the estimated replacement cost of a new remote control.

{¶4} 4) Defendant denied plaintiff's remote control was damaged while under the custody of defendant's staff. Defendant suggested the remote control was already damaged when it was packed.

{¶5} 5) On March 5, 2003, plaintiff filed a response to defendant's investigative report. Plaintiff insisted his remote was damaged while under the control of defendant's personnel.

## CONCLUSIONS OF LAW

{¶6} 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.

{¶7} 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.

{¶8} 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.

{¶9} 4) Plaintiff must produce evidence which affords a reasonable basis for the conclusion defendant's conduct is more likely than not a substantial factor in bringing about the harm. *Parks v. Department of Rehabilitation and Correction* (1985), 85-01546-AD.

{¶10} 5) Plaintiff has failed to prove, by a preponderance of the evidence, he sustained any loss as a result of any negligence on the part of defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶11} 6) Plaintiff has failed to show any causal connection between the damage to his remote control and any breach of a duty owed by defendant in regard to protecting inmate property. *Druckenmiller v. Mansfield Correctional Inst.* (1998), 97-11819-AD.

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

{¶13} IT IS ORDERED THAT:

{¶14} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶15} 2) Court costs are assessed against plaintiff.

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DANIEL R. BORCHERT  
Deputy Clerk

Order cc:

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RDK/laa  
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