

IN THE COURT OF CLAIMS OF OHIO

NATHAN FLORENCE	:	
Plaintiff	:	
v.	:	CASE NO. 2002-10712-AD
MARION CORRECTIONAL INSTITUTE	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
	:	

{¶1} THE COURT FINDS THAT:

{¶2} 1) On December 9, 2002, plaintiff, Nathan Florence, filed a complaint against defendant, Marion Correctional Institution, alleging his eyeglasses, toothpaste, deodorant and shower shoes were lost while under defendant's control. Plaintiff seeks damages in the amount of \$105.17 for property loss, plus \$25.00 for filing fees. Plaintiff submitted the filing fee with his complaint;

{¶3} 2) On April 14, 2003, defendant filed an investigation report admitting liability for the loss of plaintiff's eyeglasses. Defendant denied liability for the loss of plaintiff's toothpaste, deodorant and shower shoes. Defendant asserted plaintiff's eyeglasses were valued at \$75.00;

{¶4} 3) Sufficient evidence has been submitted to show defendant lost all items claimed.

{¶5} THE COURT CONCLUDES THAT:

{¶6} 1) 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;

{¶7} 2) Plaintiff has suffered damages in the amount of \$105.17, 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, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of plaintiff in the amount of \$130.17, which includes the filing fee. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Nathan Florence #422-114
P.O. Box 57
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Plaintiff, Pro se

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For Defendant

RDK/tad
5/30
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