



Plaintiff characterized the contraband articles as one pair of leather orthopedic high-top boots, one pair of orthopedic arch supports, one bottle of white-out eraser, one eyeglass cleaning kit, one toboggan knit hat, one velour blanket, four pairs of knee length thermal socks, and eight institutional appliance titles. Plaintiff was excused from submitting the filing fee in this particular action and he has been similarly excused from paying filing fees in four other claims filed during this calendar year.

{¶4} 4) Defendant submitted a copy of plaintiff's property inventory compiled on January 23, 2002, when he arrived at NCCI. This inventory lists plaintiff had in his possession the following property items relevant to this claim: one personal blanket, one ball cap, seven pairs of socks, one pair of brown medical boots, one pair of black boots, and a bottle of lens cleaner. Defendant also submitted a copy of plaintiff's property inventory compiled on January 31, 2002. This inventory lists contraband items found in plaintiff's possession and presumed confiscated. The listed contraband included: eight titles for property issued by institutions other than NCCI, a bottle of white-out, one hat, one personal blanket, four pairs of socks, a pair of brown shoes, and a bottle of glass cleaner solution. Relevant property items listed on the January 31, 2002 inventory, which were not confiscated included the following: one personal blanket, two state issue blankets, one pair of black dress shoes, a pair of state issue boots, and seven pairs of socks.

{¶5} 5) Defendant denied liability for the loss of the confiscated contraband titles and brown shoes. Defendant explained the titles and brown shoes, which may have contained arch supports, were state property and did not belong to plaintiff. Therefore, defendant has argued plaintiff is not entitled to recover the replacement value of property he did not own. Additionally, defendant denied liability for the loss of a bottle of white-out and a toboggan hat. Defendant maintained plaintiff has not offered any proof establishing he legitimately possessed these articles when he arrived at NCCI on January 23, 2002. Furthermore, defendant denied liability for the loss of one personal blanket and four pairs of socks. Defendant contended plaintiff failed to prove he rightfully owned these items. Defendant admitted liability in the amount of \$3.49, for the loss of one bottle of glass cleaner solution.

{¶6} 6) On June 10, 2003, plaintiff filed a response to defendant's investigation report. Plaintiff insisted he either rightfully owned the property listed as

contraband on January 31, 2002 or he bears the financial responsibility to replace state property listed as contraband. The trier of fact disagrees.

#### CONCLUSIONS OF LAW

{¶7} 1) Plaintiff has no right to assert a claim for lost property in which he cannot prove he maintained an ownership right. *DeLong v. Department of Rehabilitation and Correction* (1988), 88-06000-AD. Consequently, plaintiff's claim for the boots, arch supports, white-out, titles, blanket, socks, and toboggan is denied.

{¶8} 2) The court, finds by a preponderance of the evidence, negligence by defendant has been shown for the loss of the bottle of lens cleaner, Defendant is liable to plaintiff in the amount of \$3.49.

{¶9} 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 \$3.49. 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:

Phillip Tate, #183-479  
P.O. Box 57  
Marion, Ohio 43301

Plaintiff, Pro se

Gregory C. Trout, Chief Counsel For Defendant  
Department of Rehabilitation  
and Correction  
1050 Freeway Drive North  
Columbus, Ohio 43229

RDK/laa  
6/19  
Filed 7/1/03  
Sent to S.C. reporter 7/15/03