IN THE COURT OF CLAIMS OF OHIO

DAVID RUSSELL, #192-041   :
2500 S. Avon-Belden Road
Grafton, Ohio 44044   :   Case No. 2002-11191-AD

    Plaintiff   :   MEMORANDUM DECISION

       v.   :

OHIO DEPARTMENT OF   :
REHABILITATION AND CORRECTION
                      :

    Defendant

                : : : : : : : : : : : : : : : : : :

For Defendant: Carl Anderson, Warden
                Grafton Correctional Institution
                2500 S. Avon-Belden Road
                Grafton, Ohio 44044
                : : : : : : : : : : : : : : : : : :

{¶1} THE COURT FINDS THAT:

{¶2} 1) On December 30, 2002, plaintiff, David Russell, filed a complaint against defendant, Department of Rehabilitation and Correction, alleging his watch was lost while under the care of defendant's personnel. Plaintiff seeks damages in the amount of $21.64 for property loss, plus $25.00 for filing fee reimbursement. Plaintiff submitted the filing fee with his complaint;

{¶3} 2) On December 30, 2002, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of $46.64.

{¶4} THE COURT CONCLUDES THAT:

{¶5} 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;

{¶6} 2) Plaintiff has suffered damages in the amount of $21.64, 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.

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

{¶8} IT IS ORDERED THAT:

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

{¶10} 2) Defendant (Department of Rehabilitation and Correction) pay plaintiff (David Russell) 46.64 and such interest as is allowed by law;

{¶11} 3) The court shall absorb the court costs of this case.

DANIEL R. BORCHERT
Deputy Clerk