

[Cite as *Elkins v. Pickaway Correctional Inst.*, 2003-Ohio-3893.]

IN THE COURT OF CLAIMS OF OHIO

ROOSEVELT ELKINS	:	
Plaintiff	:	
v.	:	CASE NO. 2003-02152-AD
PICKAWAY CORRECTIONAL INSTITUTION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
	:	

FINDINGS OF FACT

{¶1} 1) Plaintiff, Roosevelt Elkins, an inmate, stated he was transferred on July 15, 2002, from the Richland Correctional Institution to the Corrections Medical Center. Subsequently, plaintiff was transferred again to defendant, Pickaway Correctional Camp. Plaintiff related his personal property was also transferred to the Pickaway Correctional Camp. However, plaintiff has asserted several items of his personal property were lost during the transfer process.

{¶2} 2) Plaintiff maintained the following property items were not returned to his possession after he was transferred to defendant's facility: a pair of headphones, a radio, a pair of gym shoes, a pair of boots, a television set, a radio/cassette player, and ten bottles of oil. Plaintiff suggested his property items were lost while under the control of defendant's personnel. Plaintiff filed this claim seeking to recover \$792.00, the estimated replacement value of the alleged missing property. Plaintiff submitted the filing fee with the complaint.

{¶3} 3) Defendant denied all liability in this matter. A set of headphones and a radio/cassette player were packed and returned to plaintiff's possession. Furthermore,

defendant has asserted plaintiff's television set and radio were packed and stored. These items were not lost. Defendant has no record of receiving delivery of a pair of boots, a pair of gym shoes, and ten bottles of oil.

CONCLUSIONS OF LAW

{¶4} 1) 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.

{¶5} 2) 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.

{¶6} 3) 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.

{¶7} 4) Plaintiff's failure to prove delivery of certain items (boots, gym shoes, and oil) to defendant constitutes a failure to show imposition of a legal bailment duty on the part of defendant with respect to stolen or lost property. *Prunty v. Department of Rehabilitation and Correction* (1987), 86-02821-AD.

{¶8} 5) Plaintiff has failed to prove, by a preponderance of the evidence, his headphones, radio/cassette player, television set, and radio were lost as a proximate result of any negligent conduct attributable to defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶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 defendant. Court costs are assessed against plaintiff. 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:

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For Defendant

RDK/laa
6/30
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