

[Cite as *Spikes v. Chillicothe Correctional Inst.*, 2003-Ohio-4500.]

IN THE COURT OF CLAIMS OF OHIO

RAYMOND J. SPIKES	:	
Plaintiff	:	
v.	:	CASE NO. 2002-08629-AD
CHILLICOTHE CORRECTIONAL INSTITUTION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
	:	

FINDINGS OF FACT

{¶1} 1) On or about January 11, 2002, plaintiff, Raymond J. Spikes, an inmate incarcerated at defendant, Chillicothe Correctional Institute (CCI), was transferred to a segregation unit.

{¶2} 2) Plaintiff's personal property was inventoried, packed, and delivered into defendant's custody incident to this transfer. On January 17, 2002, plaintiff's property was returned to his possession.

{¶3} 3) On January 19, 2002, plaintiff was again transferred to a segregation unit and his personal property was inventoried, packed, and delivered into the custody of CCI personnel. Plaintiff was apparently assigned to a segregation until April 16, 2002.

{¶4} 4) On April 16, 2002, plaintiff and his personal property were transferred from CCI to Mansfield Correctional Institution (ManCI). Plaintiff asserted before he was scheduled to depart CCI he complained to CCI staff that several items of his personal property were missing from his packed property.

{¶5} 5) Plaintiff alleged his wristwatch, radio/cassette player, two pairs of gym shoes, and eleven photographs were missing from the packed articles under the care of

CCI staff. Plaintiff asserted these alleged missing items were never found. Consequently, plaintiff filed this complaint seeking to recover \$188.00, the estimated replacement cost of his property which he asserts was lost while under the control of CCI staff members. Plaintiff also seeks recover of the \$25.00 filing fee.

{¶6} 6) Plaintiff submitted copies of his property inventories compiled on January 11, 2002 and January 19, 2002 when he was assigned to segregation. Among property items relevant to this claim the January 11, 2002 inventory lists a radio, a watch, two photo albums, and two pairs of gym shoes. The submitted January 19, 2002 inventory lists a radio, a watch, two photo albums, and one pair of low-cut gym shoes.

{¶7} 7) Defendant denied any liability in this matter. Defendant denied any of plaintiff's property was lost while under the control of CCI employees. Defendant submitted a copy of plaintiff's property inventory compiled at CCI and dated January 11, 2002. Defendant's copy of this inventory does not list a watch or a radio. Two pairs of low-cut gym shoes are listed along with two photo albums. This inventory copy also bears plaintiff's signature where he acknowledged the return of all his packed property on January 17, 2002. Additionally, defendant submitted a copy of plaintiff's property inventory dated January 19, 2002. This inventory bears plaintiff's signature certifying the list as a complete inventory of his property. Furthermore, defendant submitted a copy of plaintiff's property inventory compiled at CCI on April 16, 2002, incident to plaintiff's transfer to ManCI. This inventory indicates plaintiff was present when his property was packed and he signed the inventory acknowledging all property listed was returned to him. The April 16, 2002 inventory includes photo albums and one pair of low-cut gym shoes. The inventory does not list a watch or a radio or a second pair of gym shoes. Defendant has contended plaintiff has failed to prove any of his property was lost while under the care of CCI employees.

{¶8} 8) On July 25, 2003, plaintiff submitted a response to defendant's investigation report. Plaintiff asserted the inventory copies submitted by defendant were forgeries. Plaintiff insisted all property items claimed were lost while under defendant's control.

CONCLUSIONS OF LAW

{¶9} 1) Although not strictly responsible for a prisoner's property, defendant had at least a 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.

{¶10} 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.

{¶11} 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.

{¶12} 4) Plaintiff's failure to prove delivery of certain items of property 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.

{¶13} 5) Plaintiff has failed to prove, by a preponderance of the evidence, his listed property was lost or stolen as a proximate result of any negligent conduct attributable to defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶14} 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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RDK/laa
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