

IN THE COURT OF CLAIMS OF OHIO

REUBIN J. BEAVERS :

Plaintiff :

$$V_1 \quad \quad \quad :$$

CASE NO. 2003-02489-AD

ROSS CORRECTIONAL :
INSTITUTION

MEMORANDUM DECISION

Defendant

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FINDINGS OF FACT

¶ 1) On or about June 19, 2002, plaintiff, Reubin J. Beavers, an inmate incarcerated at defendant, Ross Correctional Institution (RCI), was transferred to an isolation unit.

{¶2} 2) Plaintiff's personal property was inventoried, packed, and delivered into the custody of RCI staff incident to this transfer.

{¶3} 3) Plaintiff has alleged several items of his personal property were lost, stolen, or damaged at the time he was transferred. Plaintiff claimed the following articles are missing: a bag of coffee, a pair of socks, a thesaurus, ten towels, six wash cloths, a set of dominos, and a chess set. Plaintiff claimed the following items were damaged: a watch, a gold chain, a ring, six cassette tapes, a cassette player, a set of headphones, and a lamp.

{¶4} 4) Plaintiff filed this complaint seeking to recover \$507.14, the estimated replacement value of his alleged missing and damaged property. On April 14, 2003, plaintiff submitted the filing fee.

{¶5} 5) Plaintiff submitted a statement from his cellmate, Jermaine Valentine, regarding the events of June 19, 2002. Valentine related he was instructed by defendant's personnel to bag all of plaintiff's property and deliver the property to the on duty correction

officer. Valentine explained he made an effort to pack and deliver all of plaintiff's property. Valentine claimed he delivered all the alleged missing property to defendant's employee.

{¶6} 6) Defendant denied damaging, losing, or failing to return any property items subject to the June 19, 2002 incident forming the basis of this claim. Defendant denied receiving delivery of a thesaurus, towels, wash cloths, dominos, and chess set. Although defendant acknowledged plaintiff's watch and ring were found to be damaged, defendant denied being the source of the damage.

{¶7} 7) Plaintiff filed a response insisting his property was lost, damaged, or stolen while under defendant's control. Plaintiff related the date display feature on his damaged watch is fixed on "WED 19" (presumably Wednesday, June 19, the date defendant received delivery of the watch). Plaintiff contended this evidence indicates his watch was damaged on June 19. The trier of fact agrees. However, the evidence presented does not establish the watch was damaged by defendant's personnel.

CONCLUSIONS OF LAW

{¶8} 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.

{¶9} 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.

{¶10} 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.

{¶11} 4) In order to recover against a defendant in a tort action, plaintiff must produce evidence which furnishes a reasonable basis for sustaining his claim. If his evidence furnishes a basis for only a guess, among different possibilities, as to any essential issues in the case, he fails to sustain the burden as to such issue. *Landon v. Lee Motors, Inc.* (1954), 161 Ohio St. 82.

{¶12} 5) Plaintiff's failure to prove delivery of certain property items to defendant constitutes a failure to show imposition of a legal bailment duty on the part of

defendant in respect to lost property. *Prunty v. Department of Rehabilitation and Correction* (1987), 86-02821-AD.

{¶13} 6) Plaintiff has failed to prove, by a preponderance of the evidence, any items were damages, 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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