

[Cite as *Williams v. S. Ohio Correctional Facility*, 2003-Ohio-4916.]

IN THE COURT OF CLAIMS OF OHIO

FRANKLIN L. WILLIAMS :

Plaintiff :

V. :

CASE NO. 2003-02608-AD

SOUTHERN OHIO CORRECTIONAL FACILITY, et al.

MEMORANDUM DECISION

Defendants

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FINDINGS OF FACT

¶1 1) On November 21, 2002, plaintiff Franklin L. Williams, an inmate, was transferred from defendant, Southern Ohio Correctional Facility (SOCF), to the Warren Correctional Institution(WCI). All of plaintiff's personal property was also transferred from SOCF to WCI on November 21, 2002.

{¶2} 2) Plaintiff has alleged his radio/cassette player and adapter were damaged beyond repair during the transfer process. Plaintiff has also alleged his headphones, plug, two cassette tapes, dictionary, and two towels were lost at sometime during the transfer from SOCF to WCI.

{¶3} 3) Consequently, plaintiff filed this complaint seeking to recover \$162.80, the estimated replacement value of his alleged damaged and missing property.

{¶4} 4) Defendant denied any liability in this matter. Defendant denied damaging or losing any of plaintiff's property incident to the November 21, 2002 transfer.

{¶5} 5) Plaintiff filed a response. Plaintiff stated in his response that his cassette tapes, headphones, dictionary, plug, and towels were destroyed at sometime during transit from SOCF to WCI. Plaintiff has now contended his property was destroyed

when baby oil spilled over the items during the November 21, 2002 transfer. Plaintiff reasserted his radio/cassette player and adapter were damaged while under the control of defendant's staff. Plaintiff submitted a statement from a fellow inmate, Leslie R. Harris, who related he observed plaintiff's property in a damaged condition. Plaintiff also submitted a copy of an informal complaint regarding the damaged state of his radio/cassette player and adapter.

CONCLUSIONS OF LAW

{¶6} 1) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that defendant does not have the liability and an insurer (i.e., is not liable without fault) with respect to inmate property, but that it does have the duty to make "reasonable attempts to protect, or recover" such property.

{¶7} 2) 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.

{¶8} 3) 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.

{¶9} 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.

{¶10} 5) 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} 6) Plaintiff has failed to prove, by a preponderance of the evidence, he sustained any loss as a result of any negligence on the part of defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶12} 7) Plaintiff has failed to show any causal connection between the damage to his property and any breach of a duty owed by defendant in regard to protecting inmate property. *Druckenmiller v. Mansfield Correctional Inst.* (1998), 97-11819-AD.

{¶13} 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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