

SOCF regulations regarding space restrictions on inmate property. Plaintiff stated he authorized the mail out of his property to a friend identified as Owen Pleasant from South Point, Ohio. Plaintiff asserted he subsequently discovered his property was not received by Owen Pleasant. Plaintiff alleged the property items designated for mailing were lost by SOCF personnel and never mailed. Plaintiff filed an amended complaint seeking to recover \$1,061.22, the estimated value of the alleged unmailed property items, plus \$25.00 for filing fee reimbursement. In his amended complaint plaintiff reduced his original damage claim from \$1,054.90 to \$994.90 based on recovery of certain property.

{¶4} 4) Defendant denied any liability in this matter. Defendant acknowledged several items of plaintiff's property were mailed from SOCF to comply with institutional property space regulations. Defendant denied any of plaintiff's property was lost while under the control of SOCF staff. Defendant contended plaintiff has failed to prove his property was lost while being handled by SOCF personnel.

CONCLUSIONS OF LAW

{¶5} 1) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that defendant does not have the liability of 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.

{¶6} 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.

{¶7} 3) However, 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.

{¶8} 4) 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.

{¶9} 5) Plaintiff has failed to prove, by a preponderance of the evidence, he

suffered any property loss as a proximate result of any negligent conduct attributable to defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶10} 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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