

[Cite as *Swiger v. Ohio State Penitentiary*, 2003-Ohio-5794.]

IN THE COURT OF CLAIMS OF OHIO

EDWARD SWIGER	:	
Plaintiff	:	
v.	:	CASE NO. 2003-06247-AD
OHIO STATE PENITENTIARY	:	<u>MEMORANDUM DECISION</u>
Defendant	:	

: : : : : : : : : : : :

{¶1} THE COURT FINDS THAT:

{¶2} 1) On May 29, 2003, plaintiff, Edward Swiger, filed a complaint against defendant, Ohio State Penitentiary, alleging defendant's employees lost his clothing items. Plaintiff seeks damages in the amount of \$35.04 for property loss, \$25.00 for filing fee reimbursement, \$1.50 for postage, and \$4.80 for copying costs. Postage and copying costs are not compensable elements of damages in a claim of this type and shall not be considered.

{¶3} 2) On August 4, 2003, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$35.04 for property loss and \$25.00 for filing fee reimbursement.

{¶4} THE COURT CONCLUDES THAT:

{¶5} 1) I find, by a preponderance of the evidence, negligence by defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD;

{¶6} 2) Plaintiff has suffered damages in the amount of \$35.04, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the

holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

{¶7} 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 plaintiff in the amount of \$60.04, which includes the filing fee. Court costs are assessed against defendant. 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:

Edward Swiger, #A220-709
878 Coitsville-Hubbard Road
Youngstown, Ohio 44505

Plaintiff, Pro se

Gregory C. Trout, Chief Counsel
Department of Rehabilitation
and Correction
1050 Freeway Drive North
Columbus, Ohio 43229

For Defendant

RDK/laa
9/23
Filed October 8, 2003
Sent to S.C. reporter 10/27/03