

SOCF staff member ever exercised control over any of the alleged missing property. Defendant contended plaintiff failed to produce evidence establishing he delivered photographs, writings, drawings, and legal material to SOCF personnel on November 25, 2002. Furthermore, defendant has maintained plaintiff's damage claim is excessive and unsupported by any evidence.

{¶6} 6) Defendant produced a copy plaintiff's property inventory dated October 20, 2002 and compiled by a SOCF employee. The inventory represents property packed by defendant. The inventory does not list photographs, writings, drawings, or legal material among the packed items, "letters and papers."

{¶7} 7) On September 12, 2003, plaintiff filed a response to defendant's investigation report. Plaintiff insisted SOCF staff packed his photographs, writings, drawings, and legal documents and subsequently lost these property items. Plaintiff professed these items were listed on the October 20, 2002 inventory under the categories, "letters and papers." Plaintiff submitted a copy of his property inventory dated June 8, 2003. This inventory lists, "letters and papers" were among the packed items. Plaintiff did not provide any additional proof to show SOCF personnel received delivery of writings, photographs, drawings, and legal documents either during October, 2002 or November, 2002. Plaintiff continued to contend his alleged lost property was worth \$2,000.00 without producing any evidence to support this contention.

CONCLUSIONS OF LAW

{¶8} 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.

{¶9} 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.

{¶10} 3) 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 issue in the case, he fails to sustain the burden as to such issue. *Landon v. Lee Motors, Inc.* (1954), 161 Ohio St. 82.

{¶11} 4) 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.

{¶12} 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.

{¶13} 6) Plaintiff's failure to prove delivery of property 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.

{¶14} 7) 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.

{¶15} 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:

Jason Goudlock, #284-561
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 10/8/03
Sent to S.C. reporter 10/27/03