

[Cite as *Simmons v. Ross Correctional Inst.*, 2004-Ohio-1078.]

IN THE COURT OF CLAIMS OF OHIO

RICKEY SIMMONS :
Plaintiff :
v. : CASE NO. 2003-10422-AD
ROSS CORRECTIONAL INSTITUTION : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶1} 1) Plaintiff, Rickey Simmons, an inmate incarcerated at defendant, Ross Correctional Institution, alleged his radio was lost while under the control of defendant's staff.

{¶2} 2) Consequently, plaintiff filed this complaint seeking to recover \$46.94, the total replacement cost of his lost property, plus \$25.00 for filing fee reimbursement.

{¶3} 3) Defendant admitted liability for the loss of plaintiff's property. However, defendant asserted the replacement cost for a radio such as the one claimed by plaintiff ranges from \$24.95 to \$42.95.

CONCLUSIONS OF LAW

{¶4} 1) 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;

{¶5} 2) Plaintiff has suffered damages in the amount of \$42.95, 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.

{¶6} 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 \$67.95, 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:

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