

insisted his television set was lost as a proximate result of negligence on the part of SOCF personnel in mailing the television set to a location which they knew did not accept business from defendant's institution.

{¶5} 5) On May 2, 2002, plaintiff sent a written inquiry to SOCF staff about his television set. On May 6, 2002, SOCF mailroom employee, Sgt. Marcella McGraw, responded by noting she contacted "Halls T.V." who acknowledged receiving plaintiff's television and agreed to send the set back to SOCF. Plaintiff's television set was never shipped back to SOCF.

{¶6} 6) Defendant denied any liability in this matter. Defendant acknowledged plaintiff authorized the mailing of his television set to Hall's television repair shop. However, defendant denied plaintiff was required to send his television set to Hall's repair service. Defendant related SOCF staff complied with plaintiff's request to mail his set to Hall's Television repair shop. Defendant denied any knowledge concerning plaintiff's contentions of Hall's refusal to accept repair work from SOCF. Defendant denied any responsibility for any loss plaintiff may have sustained.

{¶7} 7) On October 21, 2003, plaintiff filed a response to defendant's investigation report. Plaintiff reiterated SOCF personnel knew that Hall's repair shop did not accept business from SOCF. Plaintiff also again related he was directed by SOCF personnel to send his set to Hall's repair shop. Plaintiff reasserted SOCF mailroom staff were negligent in sending his television set to a shop which did not accept items from SOCF. Plaintiff again requested this court issue an entry ordering defendant to permit plaintiff to possess a "non-transparent television set."

{¶8} 8) On November 25, 2003, plaintiff filed a response to the court's entry of November 13, 2003 and requests the court reconsider the entry based on plaintiff's failure to receive the investigation report from the defendant rather than the court.

CONCLUSIONS OF LAW

{¶9} 1) R.C. 2743.10(A) states in pertinent part:

{¶10} "(A) Civil actions against the state for two thousand five hundred dollars or less shall be determined administratively by the clerk of the court of claim . . ."

{¶11} The court's jurisdiction at the administrative determination level is confined to addressing issues of money damages. This court does not have jurisdiction to grant plaintiff the relief he seeks; permission to possess a television set with a solid non-transparent case.

{¶12} 2) Although not strictly responsible for a prisoner's property, defendant had at least a 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.

{¶13} 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.

{¶14} 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. In the instant claim, evidence shows the sole cause of plaintiff's loss was the conduct of Hall's repair shop in its refusal to return plaintiff's television set. Defendant did not breach any duty owed to plaintiff in regard to his property.

{¶15} Plaintiff's motion to reconsider entry of November 13, 2003 is DENIED. 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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