

[Cite as *Maxwell v. Richland Correctional Inst.*, 2004-Ohio-2290.]

IN THE COURT OF CLAIMS OF OHIO

DAMON MAXWELL :
Plaintiff :
v. : CASE NO. 2003-10139-AD
RICHLAND CORRECTIONAL INST. : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶1} 1) On August 8, 2003, plaintiff, Damon Maxwell, an inmate, was transferred from defendant, Richland Correctional Institution, to the Lebanon Correctional Institution.

{¶2} 2) Plaintiff has alleged several items of his personal property were not transferred and were lost while under the control of defendant's personnel. Consequently, plaintiff filed this complaint seeking to recover \$659.55, the estimated value of the missing property and reimbursement of the \$25 filing fee.

{¶3} 3) Defendant filed an investigation report admitting liability for the loss of property items packed. However, defendant asserted plaintiffs damages should be limited to \$520.40.

{¶4} 4) Plaintiff filed a response requesting the court review the amount of damages he sustained.

{¶5} "5) Plaintiff has overstated his damage claim.

CONCLUSIONS OF LAW

{¶6} 1) Negligence on the part of the defendant has been shown in respect to the property claimed. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶7} 2) The assessment of damages is a matter within the province of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42.

{¶8} 3) Defendant is liable to plaintiff in the amount of \$495.40, plus the \$25 filing fee.

{¶9} 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 \$520.40, 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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Plaintiff, Pro se

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