

[Cite as *Martin v. Marion Correctional Inst.*, 2004-Ohio-2886.]

IN THE COURT OF CLAIMS OF OHIO

BENNIE C. MARTIN	:	
Plaintiff	:	
v.	:	CASE NO. 2003-07898-AD
MARION CORRECTIONAL INSTITUTION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
	:	

FINDINGS OF FACT

{¶1} 1) Plaintiff, Bennie C. Martin, an inmate incarcerated at defendant, Marion Correctional Institution, alleged that several of his personal property items were lost or stolen while under the control of defendant's personnel. Plaintiff asserted his robe, boots, headphones, two adapters, and set of ear buds were missing on or after March 18, 2003.

{¶2} 2) Plaintiff filed this complaint seeking to recover \$172.00, the estimated value of his missing property items. Plaintiff paid the requisite filing fee.

{¶3} 3) Defendant admitted liability for the loss of

plaintiff's robe, boots, one adapter, and headphones. Defendant contended plaintiff failed to prove he ever owned a second adapter or set of ear buds. Therefore, defendant denied liability for these items.

{¶4} 4) On January 26, 2004, plaintiff filed a response to defendant's investigation report. Plaintiff insisted he owned all the property items claimed.

#### CONCLUSIONS OF LAW

{¶5} 1) Negligence on the part of defendant has been proven in respect to all property items claimed. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶6} 2) Plaintiff suffered damages in the amount of \$172.00, 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 \$197.00, 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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For Defendant

DRB/RDK/laa  
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