

[Cite as *Paxson v. Warren Correctional Inst.*, 2004-Ohio-3950.]

IN THE COURT OF CLAIMS OF OHIO

JAMES LEE PAXSON :
Plaintiff :
v. : CASE NO. 2004-03870-AD
WARREN CORRECTIONAL INST. : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶1} 1) Plaintiff, James L. Paxson, an inmate incarcerated at defendant, Warren Correctional Institution, alleged that his personal property was lost or stolen while under defendant's control on or about November 5, 2003.

{¶2} 2) Additionally, plaintiff asserted other property items were lost or stolen on or about February 25, 2004.

{¶3} 3) Plaintiff sought damages of \$63.25 for property loss based on his first claim. On his second claim, plaintiff requested damages in the amount of \$137.73. Plaintiff also requested reimbursement of the \$25.00 filing fee which he submitted with the complaint.

{¶4} 4) Defendant admitted liability in the amount of \$137.73 for property loss in respect to plaintiff's second claim.

{¶5} 5) On June 10, 2004, plaintiff filed a notice of voluntary dismissal of his initial damage claim.

CONCLUSIONS OF LAW

{¶6} 1) Negligence has been shown in respect to the loss of plaintiff's property. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶7} 2) Defendant is liable to plaintiff in the amount of \$137.73, 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.

{¶8} 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 \$162.73, which includes the filing fee. Plaintiff's motion to voluntarily dismiss the first claim of his complaint is GRANTED. 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

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