

[Cite as *Thompson v. Ohio Dept. of Rehab. & Corr.*, 2004-Ohio-4128.]

IN THE COURT OF CLAIMS OF OHIO

KY THOMPSON	:	
Plaintiff	:	
v.	:	CASE NO. 2003-12212-AD
OHIO DEPT. OF REHAB. AND CORRECTIONS	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
	:	

FINDINGS OF FACT

{¶1} 1) On or about December 4, 2002, employees of defendant's Mansfield Correctional Institution (ManCI), confiscated a ring, set of headphones, and dictionary from the possession of plaintiff, Ky Thompson, an inmate.

{¶2} 2) The confiscated property items were never returned to plaintiff and were presumed lost while under the control of ManCI staff. Plaintiff filed this complaint seeking to recover \$75.00 for the loss of the ring, \$8.95 for the loss of the headphones, \$53.00 for the loss of the dictionary, and \$25.00 for filing fee reimbursement. The requisite material filing fee was paid. Plaintiff's total damage claim amounts to \$161.95.

{¶3} 3) Defendant admitted liability for the loss of plaintiff's property and acknowledged plaintiff suffered the damage amount claimed for the ring and headphones. However, defendant disputed plaintiff's damage claim for the dictionary. Defendant

explained dictionaries are sold in the institution commissary at a maximum price of \$2.95. Defendant admitted damages in the amount of \$2.95 for the loss of plaintiff's dictionary, plus \$25.00 for filing fee reimbursement.

CONCLUSIONS OF LAW

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

{¶5} 2) As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239.

{¶6} 3) Defendant is liable to plaintiff in the amount of \$86.90, 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 \$111.90, 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

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