

[Cite as *Jones v. Trumbull Correctional Inst.*, 2005-Ohio-1070.]

IN THE COURT OF CLAIMS OF OHIO

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| DONTE' R. JONES, SR. | : | |
| Plaintiff | : | |
| v. | : | CASE NO. 2004-09193-AD |
| TRUMBULL CORR. INST. | : | <u>MEMORANDUM DECISION</u> |
| Defendant | : | |

: : : : : : : : : : : : : : : :

THE COURT FINDS THAT:

{¶ 1} 1) On September 24, 2004, plaintiff, Donte' R. Jones, Sr., filed a complaint against defendant, Trumbull Correctional Institution, alleging defendant's employee lost his cassette tape. Plaintiff seeks damages in the amount of \$22.00, the stated total replacement cost of the cassette tape;

{¶ 2} 2) On December 2, 2004, defendant filed an investigation report admitting liability, but asserting the replacement cost of the cassette tape amounts to \$19.00.

THE COURT CONCLUDES THAT:

{¶ 3} 1) I find, by a preponderance of the evidence, negligence by defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD;

{¶ 4} 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;

{¶ 5} 3) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. Reasonable certainty as to the amount of damages is required,

which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶ 6} 4) The court finds defendant liable to plaintiff in the amount of \$19.00.

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| DONTE' R. JONES, SR. | : | |
| Plaintiff | : | |
| v. | : | CASE NO. 2004-09193-AD |
| TRUMBULL CORR. INST. | : | <u>ENTRY OF ADMINISTRATIVE</u> |
| Defendant | : | <u>DETERMINATION</u> |

: : : : : : : : : : : : : : : :

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 \$19.00. 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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|-----------------------------------------------------|-------------------|
| Donte' R. Jones, Sr., #406-363 5701 Burnett Road | Plaintiff, Pro se |
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Leavittsburg, Ohio 44430

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RDK/laa
2/7
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