

[Cite as *Arlt v. Dept. of Rehab. & Corr.*, 2005-Ohio-613.]

IN THE COURT OF CLAIMS OF OHIO

ROBIN ARLT :
Plaintiff :
v. : CASE NO. 2004-08154-AD
DEPARTMENT OF REHABILITATION : MEMORANDUM DECISION
AND CORRECTION :
Defendant :
: : : : : : : : : : : : : : : :

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Robin Arlt, an inmate incarcerated at defendant's Lorain Correctional Institution ("LorCI"), stated he left his cell for a job assignment at approximately 8:00 a.m. on January 5, 2004. Plaintiff recalled he locked his cell door when he left for the job assignment.

{¶ 2} 2) Plaintiff related he returned to his cell later in the day at approximately 10:30 a.m. and discovered his cell door was unlocked. Plaintiff further related upon examining the contents of his cell he noted his personal blanket was missing and presumed stolen. According to plaintiff, he immediately reported the alleged theft of his blanket to LorCI personnel.

{¶ 3} 3) Plaintiff contended his blanket was stolen after his cell door was unlocked by defendant's employee, thereby facilitating theft attempts. Consequently, plaintiff filed this complaint seeking to recover \$26.00, the estimated value of his blanket, which he claims was stolen as a result of negligence on the part of LorCI staff in unlocking his cell door. The requisite material filing fee was paid.

{¶ 4} 4) Plaintiff maintained he filed two informal complaints regarding the loss of his blanket on January 5, 2004, and on February 4, 2004. On February 11, 2004, plaintiff filed a grievance concerning the loss of his blanket. The grievance was subsequently denied. Defendant filed a theft report about the alleged January 5, 2004, theft incident on February 3, 2004.

{¶ 5} 5) Defendant denied any LorCI personnel unlocked plaintiff's cell door before he returned from his job assignment on January 5, 2004. Defendant acknowledged plaintiff's cell door was unlocked by an LorCI employee at approximately 10:30 a.m. on January 5, 2004. Defendant asserted plaintiff was present when his cell door was unlocked.

{¶ 6} 6) Defendant denied plaintiff rightfully owned a personal blanket. Defendant related no documentation or record exists to show plaintiff legally owned a personal blanket. Plaintiff has not produced any record to establish he owned a personal blanket during the time he has been incarcerated at LorCI.

CONCLUSIONS OF LAW

{¶ 7} 1) Plaintiff has no right to pursue a claim for stolen property in which he cannot prove any right of ownership. *DeLong v. Department of Rehabilitation and Correction* (1988), 88-06000-AD. Plaintiff has failed to prove he owned a personal blanket on or about January 5, 2004.

{¶ 8} 2) In respect to property owned by inmates, it has been previously held that although not strictly responsible for a prisoner's property, defendant has at least the duty of using the same degree of care as it would use with its own property. *Henderson v. Southern Ohio Correctional Facility* (1979), 76-0356-AD.

{¶ 9} 3) Plaintiff has the burden of proving, by a preponderance of the evidence, that he suffered a loss and that this loss was

proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD.

{¶ 10} 4) Plaintiff must produce evidence which affords a reasonable basis for the conclusion defendant's conduct is more likely than not a substantial factor in bringing about the harm. *Parks v. Department of Rehabilitation and Correction* (1985), 85-01546-AD.

{¶ 11} 5) In order to recover against a defendant in a tort action, plaintiff must produce evidence which furnishes a reasonable basis for sustaining his claim. If his evidence furnishes a basis for only a guess, among different possibilities, as to any essential issue in the case, he fails to sustain the burden as to such issue. *Landon v. Lee Motors, Inc.* (1954), 161 Ohio St. 82.

{¶ 12} 6) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that defendant does not have the liability of an insurer (i.e., is not liable without fault) with respect to inmate property, but that it does have the duty to make "reasonable attempts to protect, or recover" such property.

{¶ 13} 7) Defendant is not responsible for actions of other inmates unless an agency relationship is shown or it is shown that defendant was negligent. *Walker v. Southern Ohio Correctional Facility* (1978), 78-0217-AD.

{¶ 14} 8) Plaintiff has failed to prove, by a preponderance of the evidence, his property was stolen as a result of a negligent act or omission on the part of defendant. *Merkle v. Department of Rehabilitation and Correction* (2001), 2001-03135-AD.

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ROBIN ARLT

:

Plaintiff	:	
v.	:	CASE NO. 2004-08154-AD
DEPARTMENT OF REHABILITATION AND CORRECTION	:	<u>ENTRY OF ADMINISTRATIVE DETERMINATION</u>
Defendant	:	
	:	

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 defendant. Court costs are assessed against plaintiff. 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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RDK/laa
12/28
Filed 1/19/05
Sent to S.C. reporter 2/16/05