

[Cite as *Hairston v. Warren Corr. Inst.*, 2006-Ohio-7237.]

IN THE COURT OF CLAIMS OF OHIO

DANIEL HAIRSTON	:	
Plaintiff	:	
v.	:	CASE NO. 2005-11370-AD
WARREN CORRECTIONAL INSTITUTION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	

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FINDINGS OF FACT

{¶ 1} 1) On January 7, 2003, plaintiff, Daniel Hairston, an inmate, was transferred from the Lebanon Correctional Institution ("LeCI") to defendant, Warren Correctional Institution ("WCI"). On January 8, 2003, plaintiff's personal property was packed at LeCI and subsequently forwarded to WCI. On January 28, 2003, an inventory of plaintiff's personal property was compiled.

{¶ 2} 2) Plaintiff related the entire time he was incarcerated at WCI from January 2003, to January 2004, he was housed in a segregation unit and separated from his property. Plaintiff was later transferred to the Ohio State Penitentiary where he initially complained about his personal property being lost while under the care of WCI staff.

{¶ 3} 3) Plaintiff asserted his fan, radio, towels, wash cloths, blanket, clothing items, tobacco, domino game, personal hygiene articles, utensils, paper, books, and photographs were lost or stolen while being stored at WCI. It appears plaintiff discovered his property was lost at sometime in 2005 when the property was not sent to the Ohio State Penitentiary.

{¶ 4} 4) Plaintiff filed this complaint seeking to recover \$500.00, the estimated value of his missing property. Plaintiff contended his property was lost or stolen as a proximate cause of negligence on the part of WCI personnel. The filing fee was waived.

{¶ 5} 5) Defendant admitted liability for the loss of plaintiff's property. However, defendant argued plaintiff's damages should be limited to no more than \$300.00, based on the fact plaintiff has not provided sufficient proof of the value of the lost property.

{¶ 6} 6) Plaintiff filed a response insisting his damage claim of \$500.00 is a reasonable estimate of the value of his missing property.

CONCLUSIONS OF LAW

{¶ 7} 1) 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.

{¶ 8} 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.

{¶ 9} 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.

{¶ 10} 4) The standard measure of damages for personal property loss is market value. *McDonald v. Ohio State Univ. Veterinary Hosp.* (1994), 67 Ohio Misc. 2d 40.

{¶ 11} 5) In a situation where a damage assessment for personal property destruction based on market value is essentially indeterminable, a damage determination may be based on the standard value of the property to the owner. This determination considers such factors as value to the owner, original cost, replacement cost, salvage value, and fair market value at the time of the loss. *Cooper v. Feeney* (1986), 34 Ohio App. 3d 282.

{¶ 12} 6) The court finds defendant liable to plaintiff in the amount of \$400.00.

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WARREN CORRECTIONAL : ENTRY OF ADMINISTRATIVE
INSTITUTION : DETERMINATION
Defendant :

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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 \$400.00. 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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