

[Cite as *Ossman v. Pickaway Corr. Inst.*, 2006-Ohio-7240.]

IN THE COURT OF CLAIMS OF OHIO

JEFFREY W. OSSMAN	:	
Plaintiff	:	
v.	:	CASE NO. 2006-02137-AD
PICKAWAY CORRECTIONAL INSTITUTION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	

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FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Jeffrey W. Ossman, an inmate incarcerated at defendant, Pickaway Correctional Institution ("PCI"), has alleged that on October 15, 2005, his locker box was broken into and his headphones, cassette player, CD player, and accessories were stolen.

{¶ 2} 2) On October 15, 2005, plaintiff reported the theft to PCI personnel. An investigation was conducted. The alleged stolen property items could not be located.

{¶ 3} 3) Plaintiff filed this complaint seeking to recover \$94.39, the total replacement value of his alleged stolen property, which he asserts was stolen as a direct result of defendant's negligence in failing to provide adequate protection. The filing fee was waived.

{¶ 4} 4) Defendant contended plaintiff failed to produce sufficient evidence to establish his property was stolen as a proximate cause of negligence on the part of PCI staff.

{¶ 5} 5) Plaintiff filed a response. Plaintiff insisted his property items were stolen as a result of defendant's negligence in facilitating theft.

CONCLUSIONS OF LAW

{¶ 6} 1) Although not strictly responsible for a prisoner's property, defendant had 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.

{¶ 7} 2) 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.

{¶ 8} 3) The fact defendant supplied plaintiff with a locker and lock to secure valuables constitutes prima facie evidence of defendant discharging its duty of reasonable care. *Watson v. Department of Rehabilitation and Correction* (1987), 86-02635-AD.

{¶ 9} 4) The mere fact that a theft occurred is insufficient to show defendant's negligence. *Williams v. Southern Ohio Correctional Facility* (1985), 84-02425. Plaintiff must show defendant breached a duty of ordinary or reasonable care. *Williams*, supra.

{¶ 10} 5) Defendant is not responsible for thefts committed by 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.

{¶ 11} 6) 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.

{¶ 12} 7) Plaintiff has failed to prove, by a preponderance of the evidence, his property was stolen or damaged as a proximate result of any negligence on the part of defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

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Plaintiff :
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PICKAWAY 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 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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