

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

ALFRED T. SANFORD

Plaintiff

v.

ROSS CORRECTIONAL INST.

Defendant

Case No. 2006-03494-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) On or about January 10, 2006, plaintiff, Alfred T. Sanford, an inmate incarcerated at defendant, Ross Correctional Institution ("RCI"), was medically transferred from RCI to the Ohio State Medical Center. Subsequently, plaintiff was transferred to the Corrections Medical Center ("CMC"). Plaintiff stated he was then transferred from CMC to the Dual Manor Nursing Home ("Dual Manor") in Cincinnati on or about March 27, 2006.

{¶ 2} 2) Incident to plaintiff's original medical transfer on January 10, 2006, his personal property was packed and delivered into the custody of RCI staff. Plaintiff related his property was transferred to CMC when he was assigned there and was forwarded to Dual Manor pursuant to his transfer there on March 27, 2006.

{¶ 3} 3) Plaintiff claimed several items of his personal property was lost or stolen while under the control of RCI personnel. Plaintiff pointed out that when he was allowed to examine his property upon his arrival at Dual Manor, he discovered multiple articles were missing.

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{¶ 4} 4) Plaintiff asserted the following property was missing: twenty-five envelopes, three legal tablets, three bowls, two sweat shirts, a cross, a chain, five cans of fish, two remotes, a pair of gloves, a pair of sweat pants, three pairs of sweat shorts, a pair of shower shoes, six pairs of socks, three thermal bottoms, five t-shirts, five pairs of undershorts, two wash cloths, ten cassette tapes, thirty-two tobacco pouches, twenty cigars, a clock, a light bulb, and a can of shaving cream. Consequently, plaintiff filed this complaint seeking to recover \$447.55, the estimated value of his alleged missing property. The filing fee was paid.

{¶ 5} 5) Defendant denied any of plaintiff's packed property was lost or stolen while under the control of RCI personnel. Defendant contended plaintiff failed to prove any of his property was lost or stolen while in the custody of RCI staff.

{¶ 6} 6) Both defendant and plaintiff submitted copies of the January 10, 2006, inventory of plaintiff's property. Of the items claimed as missing, neither inventory lists a cross, chain, pair of personal gloves, personal undershorts, personal wash cloths, and a light bulb as being packed by RCI staff. The inventories list state issue gloves, state issue wash cloths, and state issue underwear were packed. Plaintiff cannot bring an action for the loss of state issue property considering he has no ownership right in such property. Any claim for the loss of state issue property is denied and shall not be further addressed. Additionally, the January 10, 2006, inventory lists four tobacco pouches and two envelopes were packed, not thirty-two pouches and twenty-five envelopes as claimed in plaintiff's complaint. All other alleged lost property items were listed on the January 10, 2006, inventory with the exception of one addition pair of gym shorts.

{¶ 7} 7) Defendant asserted all property packed on January 10, 2006, was sent in four boxes to CMC and then forwarded to Dual Manor. Plaintiff submitted a copy of a document titled "Inventory of Personal Effects," compiled at Dual Manor and dated March 27, 2006. None of the claimed missing property is listed on this document with the exception of multiple t-shirts and a pair of black flip-flops which are likely the claimed

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missing shower shoes. Defendant insisted four boxes of property and a television set were sent from CMC to Dual Manor on March 27, 2006. The March 27, 2006, "Inventory of Personal Effects" does not list a television set. This fact constitutes some evidence the March 27, 2006, inventory compiled at Dual Manor may not be a complete inventory of property sent from defendant to that facility. Defendant's employees, Officer Gibson and Officer J. Tatum, wrote they transported plaintiff to Dual Manor on March 27, 2006, and delivered four boxes of plaintiff's property and plaintiff's television set to the staff at Dual Manor.

CONCLUSIONS OF LAW

{¶ 8} 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.

{¶ 9} 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.

{¶ 10} 3) Plaintiff's failure to prove delivery of a cross, chain, gloves, undershorts, light bulb, wash cloths, pair of gym shorts, twenty-three envelopes, and twenty-eight tobacco pouches to defendant constitutes a failure to show imposition of a legal bailment duty on the part of defendant in respect to lost property. *Prunty v. Department of Rehabilitation and Correction* (1987), 86-02821-AD.

{¶ 11} 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.

{¶ 12} 5) This court has previously held that property in an inmate's possession which cannot be validated by proper indicia of ownership is contraband and consequently, no recovery is permitted when such property is confiscated. *Wheaton v. Department of Rehabilitation and Correction* (1988), 88-04899-AD. Consequently,

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plaintiff's claims for the loss of state issued property items are denied since he has failed to offer sufficient proof to show he owned these articles.

{¶ 13} 6) Furthermore, plaintiff has failed to prove, by a preponderance of the evidence, any additional property claimed was lost as a proximate result of any negligent conduct attributable to defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

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ENTRY OF ADMINISTRATIVE DETERMINATION

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:

Alfred T. Sanford
515 E. M. L. King Drive-Dual Manor

Plaintiff, Pro se

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Cincinnati, Ohio 45229

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For Defendant

RDK/laa
10/19
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