

[Cite as *Bumphus v. Ohio Dept. of Rehab. & Corr.*, 2008-Ohio-2443.]

Court of Claims of Ohio

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LARRY BUMPHUS

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

[Cite as *Bumphus v. Ohio Dept. of Rehab. & Corr.*, 2008-Ohio-2443.]

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Case No. 2006-02412

Judge Joseph T. Clark
Magistrate Steven A. Larson

MAGISTRATE DECISION

{¶1} Plaintiff brought this action against defendant alleging property loss. The issues of liability and damages were bifurcated and the case proceeded to trial on the issues of liability and civil immunity.

{¶2} At all times relevant to this action, plaintiff was an inmate in the custody and control of defendant at the Mansfield Correctional Institution (ManCI) pursuant to R.C. 5120.16. On March 8, 2005, plaintiff was transported to the Erie County Court of Common Pleas for a hearing. Prior to leaving defendant's custody, plaintiff was instructed to "pack up" and inventory his personal property for storage in the ManCI inmate property vault. It is undisputed that when plaintiff returned to ManCI on June 18, 2005, his property could not be found. On June 30, 2005, plaintiff was informed that the box containing his property had been sent to his family on or about March 31, 2005. In late January 2006, the box with plaintiff's property was returned to ManCI by his family. Plaintiff refused to take possession of the property.

{¶3} "When prison authorities obtain possession of an inmate's property, a bailment relationship arises between the correctional facility and the inmate. By virtue of this relationship, [defendant] must exercise ordinary care in handling and storing appellant's property." (Citations omitted.) *Triplett v. S. Ohio Corr. Facility*, 10th Dist. No. 06AP-1296, 2007-Ohio-2526, ¶ 7. However, "[defendant] does not have the liability of an insurer (i.e., is not liable without fault) with respect to inmate property, but it does have the duty to make reasonable attempts to protect such property." *Id.*

{¶4} Corrections Officer Sergeant Pamela Shaw was working in the inmate property vault on March 8, 2005. According to Shaw, plaintiff's property was packed in a laundry bag that was labeled with his name and inmate number. An inventory sheet was attached to the bag, which was then placed on a shelf in the vault. Shaw testified that plaintiff completed a check-out slip to authorize the institution to withdraw money from his account for shipping costs in the event that he did not return to the institution. (Defendant's Exhibit A.) On March 31, 2008, Shaw mailed plaintiff's property to the address noted on his check-out slip.¹ Shaw testified that she mistakenly believed that plaintiff had been released from custody. According to Shaw, she realized her mistake

¹Defendant's Exhibit A is stamped "paid" on April 1, 2005, showing that plaintiff's account was debited for the cost of shipping.

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on June 28, 2005, when she received a “kite” from plaintiff inquiring about his property. Shaw testified that she informed plaintiff of her mistake in response to the kite. On August 8, 2005, plaintiff filed an informal complaint with Shaw and she instructed him to file a grievance with the inspector. (Defendant’s Exhibit B.)

{¶15} On August 15, 2005, plaintiff filed a grievance with Sharon Berry, the inspector of institutional services for ManCI. (Defendant’s Exhibit E.) Berry testified that she investigated the matter and recommended to the warden that plaintiff be reimbursed for the postage cost that was charged to his inmate account, and that plaintiff be authorized to receive the property if it was returned to ManCI. (Defendant’s Exhibit F.) Plaintiff appealed Berry’s decision to the chief inspector, who recommended that plaintiff be reimbursed for the value of his property if it was not found and returned by plaintiff’s family. (Defendant’s Exhibit H.) According to Sergeant Shaw, plaintiff’s property was returned to the prison in January 2006.

{¶16} Plaintiff testified that he did not accept his property when it was returned because he believed that doing so would have exceeded the limit on the amount of property an inmate can possess at ManCI, and thus he would have been subject to discipline. According to plaintiff, a ManCI administrator told him that he would be permitted to keep the items, but that he rejected the offer because “special treatment” would have put him in danger of physical harm from other inmates.²

{¶17} Based upon the evidence and testimony presented, the court finds that defendant committed a breach of the duty of care it owed to plaintiff to properly store his property. As a result, plaintiff was deprived of the use of his property between the date he returned to ManCI and the date that it was returned to the institution. Additionally, plaintiff is entitled to any cost he incurred to replace his property. Accordingly, it is recommended that judgment be rendered in favor of plaintiff on the issue of liability.

²Plaintiff did not identify the individual at ManCI that made him the offer.

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{¶8} To the extent that plaintiff claims that defendant's employees acted outside the scope of their employment, the court finds that plaintiff offered no evidence to support such a claim. It is therefore recommended that Pamela Shaw and Sharon Berry be entitled to civil immunity pursuant to R.C. 9.86 and 2743.02(F).

A party may file written objections to the magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court's adoption of any factual finding or legal

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conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).

STEVEN A. LARSON
Magistrate

cc:

Jana M. Brown Naomi H. Maletz Assistant Attorneys General 150 East Gay Street, 23rd Floor Columbus, Ohio 43215-3130 Magistrate Steven A. Larson	Larry Bumphus, #452-269 Mansfield Correctional Institution P.O. Box 788 Mansfield, Ohio 44901
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MR/cmd
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