

# 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

RONALD BLOODWORTH

Plaintiff

v.

TOLEDO CORRECTIONAL  
INSTITUTION

Defendant

Case No. 2007-06870-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

## FINDINGS OF FACT

{¶ 1} 1) On October 26, 2006, plaintiff, Ronald Bloodworth, an inmate incarcerated at defendant, Toledo Correctional Institution (“ToCI”), was transferred from the institution general population to a segregation unit for an internal rule violation. Plaintiff’s personal property was inventoried, packed, and delivered into the custody of ToCI staff incident to this transfer.

{¶ 2} 2) Plaintiff asserted that while he was housed in the ToCI segregation unit multiple items of his personal property were lost or stolen while under defendant’s control or confiscated as contraband by defendant’s personnel. Additionally, plaintiff claimed his radio/cassette player was damaged at sometime while the item was in defendant’s care. Plaintiff claimed the loss of the following: four softbound books, fifteen photographs, paper receipts, twenty-five envelopes, one jar of peanut butter, one can of loose tobacco and a general equivalency diploma (“GED”) certificate, as well as the damage to his radio/cassette player. Plaintiff filed this complaint seeking to recover \$273.39, the estimated replacement value for the listed property. Payment of the \$25.00 filing fee was waived.

{¶ 3} 3) Plaintiff related his personal property, which was packed on October 26, 2006, was returned to him on October 31, 2006 and on November 2, 2006.

However, plaintiff further related he was reassigned to the ToCI segregation unit on November 2, 2006 and his personal property once again was delivered to defendant. Plaintiff asserted that when he briefly examined his returned property on November 2, 2006, he discovered several items were missing, including six books, fifteen photographs, a GED certificate, and paper receipts. Plaintiff noted he was released from segregation on November 8, 2006, his property was returned, and he soon discovered a jar of peanut butter and a can of loose tobacco were missing from the returned items. Plaintiff stated he also discovered at this time “that the antenna on his Radio-Cassette Player was completely broken off.” Plaintiff recalled he immediately reported the matter of his missing and damaged property to defendant’s employee, Sergeant Elder, who compiled a “Theft/Loss Report.” According to plaintiff, he subsequently received two books from defendant on December 6, 2006, but four books he possessed on October 26, 2006 remain missing.

{¶ 4} 4) Defendant asserted plaintiff failed to offer sufficient evidence to prove any of his property was lost, stolen, or damaged while under the control of ToCI staff. Defendant maintained that all books in plaintiff’s possession on October 26, 2006, when he was transferred to segregation, were packed and subsequently returned to plaintiff. Both defendant and plaintiff submitted a copy of plaintiff’s property inventory dated October 26, 2006 and compiled incident to his transfer to segregation. “Books” are listed on the October 26, 2006 inventory under the heading “Contraband.” The precise number of books packed on October 26, 2006 is not indicated. Defendant contended all books packed on October 26, 2006 were returned to plaintiff. Both defendant and plaintiff submitted a copy of plaintiff’s property inventory dated November 2, 2006 and compiled incident to plaintiff’s transfer to segregation. The November 2, 2006 inventory lists nine books were packed by ToCI personnel. Defendant provided evidence in the form of a “Contraband Control Slip” (copy submitted) showing several property items including books, a radio, and paper were confiscated from plaintiff’s possession on October 26, 2006 and declared contraband. It is noted on the Contraband Control Slip

that confiscated property, including a radio, books, and paper were returned to plaintiff on November 2, 2006 and December 6, 2006. Additionally, defendant maintained all of plaintiff's photographs packed on October 26, 2006 and November 2, 2006 were returned to him. The October 26, 2006 inventory lists a photo album and assorted pictures were packed by ToCI staff and the November 2, 2006 inventory lists a photo album and assorted pictures. Although plaintiff has shown he purchased a total of fifty envelopes on two separate occasions, October 4, 2006 and October 18, 2006, the two inventories of plaintiff's property do not reflect any envelopes were packed by ToCI personnel. Defendant denied any envelopes were lost while under the control of ToCI employees. Furthermore, defendant denied any peanut butter and tobacco was lost while under the control of ToCI employees. The October 26, 2006 inventory lists two peanut butter and tobacco. The November 2, 2006 inventory lists one peanut butter and no tobacco. Despite the fact that these discrepancies in the two inventories exists, defendant has denied any liability for the loss of peanut butter or tobacco. Defendant suggested plaintiff could have consumed peanut butter and tobacco during the time period from when he regained possession of his property, October 31, 2006, to the time his property was packed again by ToCI personnel, November 2, 2006. Defendant asserted all paperwork plaintiff had in his possession was returned to him. Finally, defendant denied plaintiff's radio/cassette player was damaged by ToCI staff. Plaintiff's November 2, 2006 property inventory contains a notation that his radio was "broken already" when it was packed at 1:00 p.m. on November 2, 2006. The "Contraband Control Slip" contains information showing plaintiff's radio was returned to his possession at 8:15 a.m. on November 2, 2006, the same day the radio was repacked by defendant. There is no evidence offered to show the radio was in a damaged state when it was forwarded to plaintiff at 8:15 a.m. on November 2, 2006. Defendant contended plaintiff failed to prove any of his property was lost or damaged while under the custody of ToCI personnel.

{¶ 5} 5) Plaintiff filed a response asserting all the items he claimed were

either lost or damaged while under defendant's control. Essentially, plaintiff contended the discrepancies in his property inventories regarding items packed constitutes evidence that defendant actually did pack and misplace the items claimed. Plaintiff also insisted his radio/cassette player was broken while under defendant's control. Plaintiff observed the "broken already" notation on the November 2, 2006 property inventory refers to his headphones as this notation is "clearly marked next to headphones." Plaintiff argued all the property items claimed were either lost or damaged as a proximate cause of negligence on the part of defendant in failing to exercise reasonable care when packing and storing the property.

#### CONCLUSIONS OF LAW

{¶ 6} 1) 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.

{¶ 7} 2) 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.

{¶ 8} 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.

{¶ 9} 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.

{¶ 10} 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, 53 O.O. 25, 118 N.E. 2d 147.

{¶ 11} 6) Plaintiff's failure to prove delivery of envelopes, peanut butter, and tobacco to defendant constitutes a failure to show imposition of a legal bailment duty on the part of defendant with respect to stolen or lost property. *Prunty v. Department of Rehabilitation and Correction* (1987), 86-02821-AD. Consequently, plaintiff's claims for these items are denied.

{¶ 12} 7) Plaintiff has failed to prove, by a preponderance of the evidence, additional losses as a proximate result of any negligent conduct attributable to defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD. Specifically, evidence available tends to show all books, photographs, and paper work possessed by plaintiff which were delivered into the custody of ToCI employees, were subsequently returned to plaintiff.

{¶ 13} 8) Plaintiff has failed to show any causal connection between his any damage to his radio and any breach of duty owed by defendant in regard to protecting inmate property. *Druckenmiller v. Mansfield Correctional Inst.* (1998), 97-11819-AD; *Melson v. Ohio Department of Rehabilitation and Correction* (2003), Ct. of Cl. No. 2003-04236-AD, 2003-Ohio-3615.

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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.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

Ronald Bloodworth, #366-695  
P.O. Box 80033  
Toledo, Ohio 43608

Gregory C. Trout, Chief Counsel  
Department of Rehabilitation  
and Correction  
1050 Freeway Drive North

Columbus, Ohio 43229

RDK/laa

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