

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

RAYSHAN WATLEY

Plaintiff

v.

OHIO STATE PENITENTIARY

Defendant

Case No. 2007-08783-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Rayshan Watley, an inmate incarcerated at defendant, Ohio State Penitentiary (“OSP”), stated he delivered several clothing items to the institutional laundry during August 2007 and the items were never returned.

{¶ 2} 2) Plaintiff claimed a pair of sweat pants, a pair of shorts, and three tank top shirts were never returned to his possession from the OSP laundry. Plaintiff filed this complaint seeking to recover the replacement value of the alleged unreturned clothing items. Payment of the filing fee was waived.

{¶ 3} 3) Defendant denied liability contending plaintiff failed to offer any evidence to establish he actually delivered any clothing items to the OSP laundry in August 2007. Furthermore, defendant asserted plaintiff did not produce any evidence to prove he actually owned the clothing items claimed.

{¶ 4} 4) On March 11, 2008, this court granted the plaintiff a motion for extension of time to submit a response to defendant’s investigation report. However, plaintiff has failed to submit a response.

CONCLUSIONS OF LAW

{¶ 5} 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.

{¶ 6} 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.

{¶ 7} 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.

{¶ 8} 4) 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.

{¶ 9} 5) 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} 6) Plaintiff’s failure to prove delivery of certain property items 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} 7) Plaintiff has failed to prove, by a preponderance of the evidence, he sustained any loss as a result of any negligence on the part of 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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Rayshan Watley, #347-921
878 Coitsville-Hubbard Road
Youngstown, Ohio 44505

Gregory C. Trout, Chief Counsel
Department of Rehabilitation
and Correction
1050 Freeway Drive North
Columbus, Ohio 43229

RDK/laa
9/25
Filed 10/10/08
Sent to S.C. reporter 12/19/08