

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

DAVID KING

Plaintiff

v.

MARION CORRECTIONAL INSTITUTION

Defendant

Case No. 2008-02231-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, David King, an inmate incarcerated at defendant, Marion Correctional Institution (“MCI”), alleged his laundry was lost while under the control of MCI staff. Plaintiff stated he went to retrieve his laundry bag from the MCI laundry on August 24, 2007 and discovered the bag, containing a towel, two wash cloths, and a pair of gym shorts, was empty.

{¶ 2} 2) Plaintiff filed this complaint seeking to recover damages in the amount of \$20.96, the estimated replacement cost of his alleged lost gym shorts, wash cloths, and towel. Plaintiff also requested \$250.00 “for pain and suffering and aggravation (and) research time and trouble.” Claims for pain and suffering and time expended to pursue this action are not recognizable damage elements in a claim of this type. Plaintiff’s requests are denied and the issue shall not be further addressed. Plaintiff’s damage claim total is \$20.96. The \$25.00 filing fee was paid and plaintiff requested reimbursement of that cost along with his damage claim.

{¶ 3} 3) Defendant explained 75 inmate laundry bags were collected from

plaintiff's cell block and all 75 laundry bags were returned. Defendant conceded plaintiff's laundry contained in the bag was not returned intact. Defendant admitted liability for the loss of plaintiff's wash cloths, towel, and gym shorts and acknowledged plaintiff suffered damages in the amount of \$17.00. Defendant also acknowledged plaintiff is entitled to be reimbursed for filing fee costs.

{¶ 4} 4) Plaintiff filed a response insisting he should receive \$20.96 for property loss, \$25.00 for filing fee costs, and \$250.00 in punitive damages.

CONCLUSIONS OF LAW

{¶ 5} 1) Punitive damages may not be awarded by the Court of Claims. *Drain v. Koysdar* (1978), 54 Ohio St. 2d 49, 8 O.O. 3d 65, 374 N.E. 2d 1253.

{¶ 6} 2) This court does not recognize any entitlement to damages for mental distress and extraordinary damages for simple negligence involving property loss. *Galloway v. Department of Rehabilitation and Correction* (1979), 78-0731-AD; *Berke v. Ohio Dept. of Pub. Welfare* (1976), 52 Ohio App. 2d 271, 6 O.O. 3d 280, 369 N.E. 2d 1056.

{¶ 7} 3) Negligence on the part of defendant has been shown in respect to the issue of property protection. *Billups v. Department of Rehabilitation and Correction* (2001), 2000-10634-AD, jud.

{¶ 8} 4) As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239, 577 N.E. 2d 160.

{¶ 9} 5) Defendant is liable to plaintiff for property loss in the amount of \$20.96, plus the \$25.00 filing fee which may be reimbursed as compensable costs pursuant to R.C. 2335.19. See *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

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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 plaintiff in the amount of \$45.96, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
10/6
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