

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

MICHAEL BUGG

Plaintiff

v.

MANSFIELD CORRECTIONAL INST.

Defendant

Case No. 2008-06041-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) On January 9, 2008, employees of defendant, Mansfield Correctional Institution (“ManCI”), entered the cell of plaintiff, Michael Bugg, an inmate and confiscated a radio/cassette player/alarm clock, a floor fan, a lamp, a power strip, a combination lock, and art supplies. The confiscated property items were declared contraband.

{¶ 2} 2) Plaintiff related ManCI personnel “cut the cords off” the radio/cassette player/alarm clock, fan, lamp, and power strip to confiscate these property items. Defendant explained plaintiff, “had fed the electrical cords for a radio, fan, power strip and lamp through the back of the desk/cabinet unit (there is no opening to accommodate this, the cabinet was bent/damaged to create an opening) and tied them in knots around/with a V58 combination lock.” Defendant also explained the V58 combination lock is not an approved item for inmate possession at ManCI and the only approved combination lock is a V61 type due to the fact ManCI staff are issued keys to open V61 type locks. Since ManCI personnel could not use keys to disengage plaintiff’s elaborate locking system for his electrical devices, the electrical cords of the devices

were cut to complete the confiscation. Defendant issued plaintiff a conduct report (copy submitted) for possession of contraband and the confiscated property was stored in the custody of ManCI staff. Plaintiff was subsequently found guilty of contraband possession and was ordered to authorize either the mail out or the destruction of the declared contraband. According to submitted records the confiscated contraband items included a fan, a lamp, a Timex radio, a power strip, "mushfake" cord, and a combination lock. Plaintiff authorized the mailing of the contraband items to his home address and defendant posted the items there.

{¶ 3} 3) Plaintiff contended defendant had no authority to cut the cords on his electrical devices and he has consequently filed this complaint asserting defendant should bear liability for the replacement value of all the claimed confiscated property. Plaintiff seeks recovery of damages in the amount of \$225.00 for 1 Timex Indiglo AM/FM cassette player with clock and twin alarms, 1 Lakewood floor fan, a 5 way power strip, 1 lamp with bulbs, 1 combination lock, and art supplies. Plaintiff paid the \$25.00 filing fee and requested reimbursement of that cost along with his damage claim.

{¶ 4} 4) Defendant argued plaintiff cannot maintain an action which essentially constitutes an appeal of a determination of a ManCI Hearing Officer. Defendant asserted plaintiff is unable to pursue a claim for contraband property he had no right to possess.

{¶ 5} 5) Plaintiff filed a response insisting ManCI staff had no right or authority to cut the cords from his electrical devices to confiscate these items. Plaintiff asserted the confiscated items were never mailed to his home address, but were instead destroyed by ManCI personnel.

CONCLUSIONS OF LAW

{¶ 6} 1) Prison regulations, including those contained in the Ohio Administrative Code, "are primarily designed to guide correctional officials in prison administration rather than to confer rights on inmates." *State ex rel. Larkins v. Wilkinson*, 79 Ohio St. 3d 477, 1997-Ohio-139, 683 N.E. 2d 1139, citing *Sandin v. Conner* (1995), 515 U.S. 472, 481-482, 115 S. Ct. 2293, 132 L. Ed. 2d 418. Additionally, this court has held that "even if defendant had violated the Ohio Administrative code, no cause of action would exist in this court. A breach of internal regulations in itself does not constitute negligence." *Williams v. Ohio Dept. of Rehab. and Corr.* (1993), 67 Ohio Misc. 2d 1, 3, 643 N.E. 2d 1182. Accordingly, to the extent

plaintiff alleges that employees of defendant have failed to comply with internal prison regulations and the Ohio Administrative Code, he fails to state a claim for relief.

{¶ 7} 2) An inmate plaintiff may recover the value of confiscated property destroyed by agents of defendant when those agents acted without authority or right to carry out the property destruction. *Berg v. Belmont Correctional Institution* (1998), 97-09261-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. However, plaintiff has no right to pursue a claim for property in which he cannot prove any rightful ownership. *DeLong v. Department of Rehabilitation and Correction* (1988), 88-06000-AD. Defendant cannot be held liable for the loss of contraband property that plaintiff has no right to possess. *Radford v. Department of Rehabilitation and Correction* (1985), 84-09071. An inmate maintains no right of ownership in property which is impermissibly altered and therefore, has no right to recovery when the altered property is destroyed. *Watley v. Ohio Department of Rehabilitation and Correction*, Ct. of Cl. No. 2005-05183-AD; jud, 2005-Ohio-4320; *Griffin v. Ohio Department of Corrections*, Ct. of Cl. No. 2005-08271-AD, 2006-Ohio-7150.

{¶ 10} 5) Plaintiff failed to prove defendant ever exercised control over art supplies. There is no record these items were confiscated. Plaintiff's failure to prove delivery of the items to defendant constitutes a failure to show imposition of a duty on the part of defendant in respect to disposition of the property. *Prunty v. Department of Rehabilitation and Correction* (1987), 86-02821-AD.

{¶ 11} 6) An inmate plaintiff is barred from pursuing a claim for the loss of use of restricted property when such property is declared impermissible pursuant to departmental policy. *Zerla v. Dept. of Rehab. and Corr.* (2001), 2000-09849-AD. Plaintiff's claim is denied.

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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:

Michael Bugg, #358-157
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RDK/laa
10/7
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