

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

ALLEN GRADY SANDERS

Plaintiff

v.

OHIO ADULT PAROLE AUTHORITY

Defendant

Case No. 2009-02596-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) On November 24, 2008, plaintiff, Allen Grady Sanders, was arrested by employees of defendant, Adult Parole Authority (“APA”) on a parole violation warrant. Plaintiff was transported to the Summit County Jail where he was incarcerated until November 26, 2008 when he was transferred to the Lorain Correctional Institution (“LorCI”).

{¶ 2} 2) Plaintiff explained his personal property items, which included a gold link chain, leather coat, knit cap, a pair of jeans, a t-shirt, and a pair of boots, lighter, and cell phone were left at the Summit County Jail and were not forwarded to LorCI. Plaintiff related he was informed he “had to fill out a property release form” when he was transferred to LorCI and was told his son would be contacted by Summit County Jail personnel to come retrieve the property items left there. Plaintiff further related his son went to the jail to retrieve the property left there, but no items could be located. Apparently the Summit County Jail holds inmate property for three days and after that time frame has elapsed clothing items are donated while other valuables are sent to the

Summit County Sheriff's main property room where the items are classified as abandoned property.

{¶ 3} 3) Plaintiff filed this complaint against defendant contending APA is somehow responsible for the loss of his property which was either donated or forfeited to the Summit County Sheriff's Department. Plaintiff believed that when he was taken to the Summit County Jail by defendant's employees his personal property would be forwarded to LorCI. Plaintiff related he was not given any time to make arrangements to have his property picked up once he was arrested by APA and transported to the Summit County Jail. Plaintiff contended APA should have contacted his son to come to the jail and recover his property. Plaintiff filed this complaint seeking to recover \$2,242.90, the estimated value of the personal property items left under the custody and control of the Summit County Sheriff's Department. The filing fee was waived.

{¶ 4} 4) Defendant denied liability in this matter explaining APA did not exercise control over the property items claimed by plaintiff. Defendant essentially asserted APA is not the proper party defendant in this action since no APA employee ever received delivery of plaintiff's property and APA does not exert control over procedures and policies employed by the Summit County Jail.

{¶ 5} 5) Plaintiff filed a response arguing that the Summit County Sheriff's Department is an agent of defendant and consequently, APA should bear responsibility for the acts of its agents. Plaintiff did not submit any evidence to prove defendant and the Summit County Sheriff's Department have entered into a contract whereby an agency relationship was created. Plaintiff also asserted APA should have known his property would not be forwarded to LorCI and therefore should bear liability for the loss.

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) 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.

{¶ 10} 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.

{¶ 11} 6) Plaintiffs' 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.

{¶ 12} 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.

{¶ 13} 8) Furthermore, plaintiff has failed to offer evidence to support the conclusion that defendant is responsible for the acts and policy operation of the Summit County Sheriff's Department.

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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:

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RDK/laa
6/30
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