

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

DOUGLAS S. JACKSON

Plaintiff

v.

OHIO ADULT PAROLE AUTHORITY

Defendant

Case No. 2008-11842-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) On September 4, 2008, plaintiff, Douglas S. Jackson, an offender under the supervision of defendant, Ohio Adult Parole Authority (APA), went AWOL from the Diversified Community Services Halfway House (Halfway House) after testing positive for marijuana and cocaine use. Plaintiff pointed out that when he went AWOL from the halfway house he left behind personal clothing, a stereo, and funds in an escrow account. Plaintiff was subsequently arrested on November 12, 2008 and then transferred to the Correctional Reception Center. Plaintiff claimed the property items he left at the halfway house including the money in his escrow account were never forwarded by defendant to the Correctional Reception Center. Consequently, plaintiff filed this complaint seeking to recover \$1,000.00, the stated value of the property left at the halfway house and funds in his account. Plaintiff was not required to pay a filing fee.

{¶ 2} 2) Defendant explained the halfway house forwarded the funds remaining in plaintiff's escrow account, \$343.01, to plaintiff's inmate account at the

London Correctional Institution. Defendant submitted a copy of the check dated January 22, 2009 drafted by the halfway house designating plaintiff as payee. Defendant attached a copy of the Inmate Demand Statement showing a deposit of \$343.01 was made to plaintiff's inmate account at the London Correctional Institution.

{¶ 3} 3) Defendant further explained the personal clothing and any other items plaintiff left behind were packed by halfway house staff. Defendant submitted a copy of a hand written inventory of plaintiff's property. The inventory list included two pairs of jeans, one pair of jean shorts, one ball cap, four stocking caps, twenty-five photographs, letters and papers, an additional cap, one pair of flip flops, three signs, one hooded pullover, one fleece pullover, one pair of swimming trunks, three pairs of long johns, two pairs of boxer shorts, one flannel shirt, an additional pullover, two dress shirts, one pair of blue athletic shorts, one pair of dress shorts, one tank top, one orange shirt, two polo shirts, one sleeveless athletic shirt, and two t-shirts. Defendant related the property "has been transferred to APA staff and will be sent to the institution (subject to the institution's property restrictions) upon this court's direction."

CONCLUSIONS OF LAW

{¶ 4} 1) Although not strictly responsible for a prisoner's property, defendant had at least the duty to using the same degree of care as it would use with its own property. *Henderson v. Southern Ohio Correctional Facility* (1979), 76-0356-AD.

{¶ 5} 2) 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.

{¶ 6} 3) 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.

{¶ 7} 4) Plaintiff has failed to prove, by a preponderance of the evidence, any of his escrow account funds sent unrecovered as a proximate result of any negligent conduct attributable to defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶ 8} 5) Plaintiff has no right to pursue a claim for confiscated, stolen, or lost property in which he cannot prove any right of ownership. *DeLong v. Department of*

Rehabilitation and Correction (1988), 88-06000-AD. The issue of ownership of property is determined by the trier of fact based on evidence presented. *Cisterno v. Ohio Dept. of Rehabilitation and Corrections*, Ct. of Cl. No. 2004-04388-AD, 2004-Ohio-5413.

{¶ 9} 6) Plaintiff effectively abandoned the property left at the halfway house when he went AWOL. Plaintiff relinquished all ownership rights in the abandoned property items and consequently may not prevail on a claim to recover damages for the loss of abandoned property. *Dorsey v. Grafton Corr. Inst.*, Ct. of Cl. No. 2002-07304-AD, 2003-Ohio-1119; *Noble v. Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2006-02838-AD, 2006-Ohio-7248; *Lacey v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2005-07453-AD, 2008-Ohio-2636.

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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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