

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

STEVEN B. HOLLAND

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTIONS

Defendant

Case No. 2009-05293-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) On October 24, 2008, an employee of defendant, Department of Rehabilitation and Correction, confiscated a photograph and sketch pad from plaintiff, Steven B. Holland, an inmate incarcerated at defendant's North Central Correctional Institution (NCCI). Plaintiff pointed out the confiscated sketch pad contained seventy pages of drawings he had sketched freehand. Plaintiff explained the confiscated photograph and sketch pad containing his drawings were subsequently lost while under the control of NCCI staff.

{¶ 2} 2) Plaintiff maintained his property was lost as a proximate cause of negligence on the part of defendant's personnel. Plaintiff filed this complaint seeking to recover \$143.49, the stated value of the photograph, sketch pad, and freehand drawings contained therein. Plaintiff submitted copies of surviving drawings he has made. The filing fee was paid. Plaintiff's drawings display a degree of skill.

{¶ 3} 3) Defendant admitted liability for the loss of plaintiff's photograph and sketch pad, but disputed the damage claim. Defendant maintained plaintiff's damages should be limited to \$12.50, "the stock cost of the photograph and sketch pad."

Defendant argued plaintiff is not entitled to recover any damages for the loss of his freehand sketches.

{¶ 4} 4) Plaintiff filed a response insisting he should be compensated for the loss of his seventy drawings. Plaintiff asserted the amount he requested for the loss of his drawings is “more than fair.”

CONCLUSIONS OF LAW

{¶ 5} 1) Negligence on the part of defendant has been proven. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶ 6} 2) The standard measure of damages for personal property loss is market value. *McDonald v. Ohio State Univ. Veterinary Hosp.* (1994), 67 Ohio Misc. 2d 40, 644 N.E. 2d 750.

{¶ 7} 3) In a situation where a damage assessment for personal property destruction based on market value is essentially indeterminable, a damage determination may be based on the standard value of the property to the owner. This determination considers such factors as value to the owner, original cost, replacement cost, salvage value, and fair market value at the time of the loss. *Cooper v. Feeney* (1986), 34 Ohio App. 3d 282, 518 N.E. 2d 46

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

{¶ 9} 5) Evidence indicates to the trier of fact that plaintiff has suffered damages for the loss of his skillfully crafted property. See *Berg v. Belmont Correctional Institution* (1998), 97-09261-AD; *Hightower v. Marion Correctional Inst., Ct. of Cl. No. 2004-01303-AD, 2004-Ohio-3493.*

{¶ 10} 6) Defendant is liable to plaintiff for the damage claimed \$143.49, plus the \$25.00 filing fee which may be awarded as compensable costs pursuant to R.C. 2335.19. *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 \$168.49, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
2/3
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