

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

DEON HINES

Plaintiff

v.

ALLEN CORR. INST.

Defendant

Case No. 2011-03766-AD

Acting Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶1} Plaintiff, Deon Hines, an inmate incarcerated at defendant's Allen Correctional Institution (ACI), has alleged that his personal property was lost or stolen while under the control of ACI staff. Plaintiff recalled that on June 5, 2010, after he and his cellmate were in a fight, both were removed from the cell and transferred to a segregation unit. Incident to the transfer, plaintiff's personal property was inventoried, packed, and delivered into the custody of ACI personnel. Plaintiff maintained that his property was mixed in with his cellmate's property and that some of plaintiff's belongings were subsequently discarded. Specifically, plaintiff alleged the following items were missing: one brush-\$2.71, one padlock-\$4.71, one surge protector-\$6.23, one pair shower shoes-\$3.15, two bowls-\$8.76, fingernail clippers-\$.77, two pens-\$.92, one deck of cards-\$1.96, one dictionary-\$2.28, one alarm clock-\$7.91, thermal mug-\$2.81, one plastic tumbler-\$.96, one pair of socks-\$1.06, one set of earbuds-\$4.48, one water bottle-\$3.67, and 29 photographs plaintiff valued at \$5.00 each-\$145.00.

{¶2} Plaintiff has contended his property was lost as a proximate result of negligence on the part of ACI personnel. Plaintiff has consequently, filed this complaint seeking to recover \$197.38, the stated estimated value of his alleged lost property items. Payment of the filing fee was waived.

{¶3} Plaintiff submitted copies of relevant property inventory sheets and theft/loss reports completed at ACI.

{¶4} Defendant filed an investigation admitting liability for the loss of plaintiff's claimed items. However, defendant contended plaintiff has not produced sufficient evidence to prove the value of his lost property amounted to \$197.38. Defendant has admitted liability for property loss in the amount of \$52.38.

{¶5} In his response to defendant's investigation report, plaintiff insisted the photographs had a value of at least \$3.00 each and that he should also be compensated for postage costs to have the photographs mailed to him. Plaintiff did not submit any evidence to establish the amount he paid to have the photographs mailed to him or that the photographs were worth \$3.00 per photograph.

CONCLUSIONS OF LAW

{¶6} Negligence by defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶7} 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.

{¶8} Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42, 25 OBR 115, 495 N.E. 2d 462. Reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782, 658 N.E. 2d 31. 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.

{¶9} The court finds defendant liable to plaintiff in the amount of \$95.88. See *Bard v. Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2004-08642-AD, 2005-Ohio-1390; *Williams v. Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2009-06681-AD, 2010-Ohio-3634.



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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 \$95.88. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Acting Clerk

Entry cc:

Deon Hines, #476-521
2338 N. West Street
P.O. Box 4501
Lima, Ohio 45802-4501

Gregory C. Trout, Chief Counsel
Department of Rehabilitation
and Correction
770 West Broad Street
Columbus, Ohio 43222

7/25
Filed 8/4/11
Sent to S.C. reporter 12/20/11