

[Cite as *Knapp v. Ohio Dept. of Rehab. & Corr.*, 2005-Ohio-3211.]

IN THE COURT OF CLAIMS OF OHIO

JAMES KNAPP	:	
	:	
Plaintiff	:	
	:	
v.	:	CASE NO. 2005-01285-AD
	:	
OHIO DEPT. OF REHABILITATION AND CORRECTIONS	:	<u>MEMORANDUM DECISION</u>
	:	
Defendant	:	
	:	
	:	
	:	
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	:	
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	:	
	:	

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, James Knapp, an inmate incarcerated at defendant’s Pickaway Correctional Institution (“PCI”), has alleged that on October 22, 2004, his locker box was broken into and his boots, cassette player, and cassette tape were stolen.

{¶ 2} 2) On October 25, 2004, plaintiff reported the theft to PCI personnel. An investigation was conducted. The alleged stolen property items could not be located. PCI personnel could not find evidence to support plaintiff’s claim regarding a theft loss.

{¶ 3} 3) Plaintiff filed this complaint seeking to recover \$116.91, the total replacement value of his alleged stolen property, which he asserts was stolen as a direct result of defendant’s negligence in failing to provide adequate protection. The filing fee was paid.

{¶ 4} 4) Defendant contended plaintiff failed to produce sufficient evidence to establish his property was stolen as a proximate cause of negligence on the part of PCI staff.

{¶ 5} 5) Plaintiff filed a response. Plaintiff insisted his property items were stolen as a result of defendant’s negligence in

facilitating theft.

{¶ 6} 6) Defendant filed a document captioned "Reply To Plaintiff's Response To Investigation Report." There are no procedural mechanisms available under statute or local rules to accept this type of filing. Therefore, the document is regarded as an improper filing and is stricken.

CONCLUSIONS OF LAW

{¶ 7} 1) The mere fact if proven that a theft occurred is insufficient to show defendant's negligence. *Williams v. Southern Ohio Correctional Facility* (1985), 83-07091-AD; *Custom v. Southern Ohio Correctional Facility* (1985), 84-02425-AD. Plaintiff must show defendant breached a duty of ordinary or reasonable care. *Williams*, supra.

{¶ 8} 2) Defendant is not responsible for actions of other inmates unless an agency relationship is shown or it is shown that defendant was negligent. *Walker v. Southern Ohio Correctional Facility* (1978), 78-0217-AD.

{¶ 9} 3) The fact defendant supplied plaintiff with a locker box and lock to secure valuables constitutes prima facie evidence of defendant discharging its duty of reasonable care. *Watson v. Department of Rehabilitation and Correction* (1987), 86-02635-AD.

{¶ 10} 4) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that the 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.

{¶ 11} 5) Plaintiff has failed to prove, by a preponderance of the evidence, he suffered any loss as a result of a negligent act or omission on the part of defendant. *Merkle v. Department of Rehabilitation and Correction* (2001), 2001-03135-AD.

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Plaintiff	:	
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v.	:	CASE NO. 2005-01285-AD
	:	
OHIO DEPT. OF REHABILITATION AND CORRECTIONS	:	<u>ENTRY OF ADMINISTRATIVE DETERMINATION</u>
	:	
Defendant	:	
	:	
: : : : : : : : : : : : : : :		

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. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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