

reasoned, any commissary items plaintiff possessed would have been obtained through illegitimate means and consequently, contraband. Furthermore, defendant related plaintiff was unable to provide any documents or receipts to establish he rightfully possessed the confiscated articles. Defendant contended plaintiff may not pursue a claim for the loss of property he cannot prove he actually owned.

{¶ 4} 4) In his response to defendant's investigation report, plaintiff maintained he purchased the confiscated property claimed from the SOCF commissary at sometime before September 1, 2004. Plaintiff alleged the property he purchased from the SOCF commissary was held in "long term storage" and then released to his possession. Plaintiff did not submit proper documentation to prove he rightfully owned the confiscated property. Despite the fact plaintiff did submit a copy of a "Supplemental Disposition of Grievance" dated November 30, 2004, which contains information plaintiff may have possessed coffee, soups, and a bowl set at sometime prior to November 18, 2004.

CONCLUSIONS OF LAW

{¶ 5} 1) 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.

{¶ 6} 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.

{¶ 7} 3) 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.

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