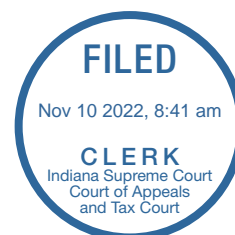


## MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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APPELLANT PRO SE

Donald T. Green  
New Castle, Indiana

ATTORNEY FOR APPELLEES

Andrew J. Sickman  
Boston Bever Forrest Cross &  
Sickman  
Richmond, Indiana

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## IN THE COURT OF APPEALS OF INDIANA

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Donald T. Green,

*Appellant,*

v.

GEO, Inc., New Castle  
Correctional Facility,

*Appellees.*

November 10, 2022

Court of Appeals Case No.  
22A-SC-818

Appeal from the Henry Circuit  
Court

The Honorable David L. McCord,  
Judge

Trial Court Cause No.  
33C03-2109-SC-476

**Bailey, Judge.**

## Case Summary

- [1] Donald T. Green (“Green”) filed a pro-se small claims complaint seeking \$1,500 for lost or damaged personal property, naming as defendants GEO, Group, Inc. and the New Castle Correctional Facility, where Green is an inmate (collectively, “GEO”). Green appeals the denial of his claim, raising a single issue: whether he was denied due process because the small claims court did not issue witness subpoenas. We affirm.

## Facts and Procedural History

- [2] On February 17, 2020, Green was placed in a segregated unit overnight. Incident to that placement, Green’s property was inventoried and moved. When Green was released from segregation on February 18, he signed a form indicating that his property had been returned in full.
- [3] On March 2, 2020, Green filed a Notice of Loss of Property – Tort Claim, alleging that some of his property had been damaged and some of his property was missing. In a supplemental Notice of Tort Claim, Green stated that he had been unable to view his property before signing the property release form.
- [4] On September 7, 2021, Green filed a small claims complaint in the Henry Circuit Court, and he also filed a motion to have the matter heard telephonically. On September 24, the small claims court declined to order Green’s transport and ordered the submission of affidavits in lieu of an in-court or telephonic hearing.

- [5] Green submitted an affidavit averring that correctional staff had mishandled, damaged, or lost various items of his property. In December of 2021, counsel for GEO submitted an affidavit in response. According to the affidavit, the correctional facility tort claims investigator had reviewed video camera footage from the February 17, 2020 incident. The tort claims investigator reported having seen only correctional staff handle Green’s property and denied that there had been any negligence in the performance of the tasks.
- [6] On March 10, 2022, the small claims court issued an order stating that Green had failed to meet his burden of proof and denying Green damages. Green now appeals.

## Discussion and Decision

- [7] Small claims judgments are “subject to review as prescribed by relevant Indiana rules and statutes.” Ind. Small Claims Rule 11(A). Green had the burden of proof on his small claims action and now appeals a negative judgment. When a party appeals from a negative judgment, we will reverse only if the decision of the trial court is contrary to law. *LTL Truck Service, LLC v. Safeguard, Inc.*, 817 N.E.2d 664, 667 (Ind. Ct. App. 2004). A decision is contrary to law if the evidence and reasonable inferences lead to but one conclusion and the trial court has reached the opposite conclusion. *Id.* However, the deferential standard applied to findings of fact does not apply to substantive rules of law, which are reviewed de novo. *Hastetter v. Fetter Props., LLC*, 873 N.E.2d 679, 683 (Ind. Ct. App. 2007).

[8] Green does not expressly argue that he established his claim for damages. Rather, he appears to assert that he was thwarted in his efforts to establish his claim. As best we can discern Green’s argument, it is that the small claims court failed to accord him due process because subpoenas were not issued. According to Green, the small claims court ruled against him “without allowing for a subpoena to ask for witness statements.” Appellant’s Brief at 4.<sup>1</sup>

[9] Indiana Small Claims Rule 8(A) provides: “The trial shall be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law, and shall not be bound by the statutory provisions or rules of practice, procedure, pleadings or evidence except provisions relating to privileged communications and offers of compromise.”

[10] Discovery in small claims matters is governed by Small Claims Rule 6, which provides:

Discovery may be had in a manner generally pursuant to the rules governing any other civil action, but only upon the approval of the court and under such limitations as may be specified. The court should grant discovery only upon notice and good cause shown and should limit such action to the necessities of the case.

Pursuant to Rule 8(B), the trial court has the power to issue subpoenas to compel witnesses to appear.

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<sup>1</sup> Green also observes that the small claims court did not grant his request for a telephonic hearing; however, Green develops no corresponding argument.

[11] GEO observes that Green did not ask for court approval to conduct discovery and more specifically, Green did not request the issuance of subpoenas. Green directs us to consider his affidavit, wherein he requested damages of \$1,500 and added, “if needed, subpoena (sic) all persons involved on State tort claim form 54668.” (App. Vol. II, pg. 65.) This language, appearing as the final, incomplete sentence of Green’s affidavit does not conform to the requirements of Small Claims Rule 6, which requires a party to show good cause and obtain approval before discovery is allowed. Green was not denied due process.

[12] Affirmed.

Riley, J., and Vaidik, J., concur.