

[Cite as *Wells v. Ohio State Penitentiary*, 2002-Ohio-4624.]

IN THE COURT OF CLAIMS OF OHIO

ORSON WELLS, #148-660 :
878 Coitsville-Hubbard Road :
Youngstown, Ohio 44505 : Case No. 2002-03503-AD

Plaintiff : MEMORANDUM DECISION

v. :

OHIO STATE PENITENTIARY :

Defendant :

: : : : : : : : : : : : : : : :

For Defendant: Gregory C. Trout, Chief Counsel
Department of Rehabilitation and
Correction
1050 Freeway North
Columbus, Ohio 43229

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{¶1} THE COURT FINDS THAT:

{¶2} 1) On March 29, 2002, plaintiff, Orson Wells, filed a complaint against defendant, Ohio State Penitentiary, alleging his envelopes, letters, and photographs were confiscated by defendant's personnel and subsequently lost. Plaintiff sought damages in the amount of \$105.92 for property loss, plus \$25.00 for filing fee reimbursement. Plaintiff submitted the filing fee with the complaint;

{¶3} 2) On May 7, 2002, defendant filed an investigation report admitting liability;

{¶4} 3) Plaintiff filed a response indicating his willingness to accept \$36.26 for property loss, plus filing fees.

{¶5} THE COURT CONCLUDES THAT:

{¶6} 1) I find, by a preponderance of the evidence, 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} 2) Plaintiff has suffered damages in the amount of \$40.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

{¶8} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶9} IT IS ORDERED THAT:

{¶10} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶11} 2) Defendant (Ohio State Penitentiary) pay plaintiff (Orson Wells) \$65.00 and such interest as is allowed by law;

{¶12} 3) Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
5/23
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