

IN THE COURT OF CLAIMS OF OHIO

SHANNON L. RILEY	:	
Plaintiff	:	
v.	:	CASE NO. 2003-05062-AD
SOUTHERN OHIO CORRECTIONAL FACILITY	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
	:	
	:	

FINDINGS OF FACT

{¶1} 1) Plaintiff, Shannon L. Riley, an inmate incarcerated at defendant, Southern Ohio Correctional Facility (SOCF), stated he was assigned to a segregation unit sometime in 1998. Incident to this assignment, plaintiff’s personal property was delivered into the custody and control of SOCF personnel.

{¶2} 2) Plaintiff has alleged several items of his personal property were lost or stolen sometime after the items were stored in defendant’s property vault. Plaintiff filed this complaint on April 18, 2003, seeking to recover \$515.90, the estimated replacement value of his alleged missing property items. Plaintiff was excused from paying any fees to prosecute this action. Pursuant to the time limitations for filings promulgated in R.C. 2743.16, the court is restrained from addressing any issue of property loss occurring before April 18, 2001.

{¶3} 3) Plaintiff asserted the following property items were lost: 17 magazines, 46 photographs, a phone book, 5 books, 2 towels, a pair of long underwear bottoms, 3 wash cloths, 1 pair of

headphones with an extension, a coaxial cable, 2 photo albums, gym shoes, 3 t-shirts, 3 undershorts, 5 pads, 6 pairs of socks, a pair of slippers, 2 pairs of gym shorts, a blanket, and hygiene products.

{¶4} 4) Defendant denied any liability in this matter. Defendant denied exercising control over the alleged missing property. Defendant denied any of plaintiff's property under the control of SOCF personnel was lost or stolen after April 18, 2001.

{¶5} 5) On November 7, 2003, plaintiff filed a response to defendant's investigation report. However, plaintiff did not submit any evidence to establish the claimed property items were lost or stolen while under defendant's control.

CONCLUSIONS OF LAW

{¶6} 1) Although not strictly responsible for a prisoner's property, defendant had at least a 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.

{¶7} 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.

{¶8} 3) Plaintiff must produce evidence which affords a reasonable basis for the conclusion defendant's conduct is more likely than not a substantial factor in bringing about the harm. *Parks v. Department of Rehabilitation and Correction* (1985), 85-01546-AD.

{¶9} 4) Plaintiff's failure to prove delivery of certain items of property to defendant constitutes a failure to show imposition of a legal bailment duty on the part of defendant with respect to stolen or lost property. *Prunty v. Department of Rehabilitation*

and Correction (1987), 86-02821-AD.

{¶10} 5) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that 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} 6) Plaintiff has failed to prove, by a preponderance of the evidence, he sustained any loss as a result of any negligence on the part of defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶12} 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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Plaintiff, Pro se

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For Defendant

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