

[Cite as *McCreary v. Lima Correctional Inst.*, 2003-Ohio-2980.]

IN THE COURT OF CLAIMS OF OHIO

FLETCHER V. MC CREARY :
Plaintiff :
v. : CASE NO. 2003-02411-AD
LIMA CORRECTIONAL INSTITUTION : MEMORANDUM DECISION
Defendant :

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

{¶1} THE COURT FINDS THAT:

{¶2} 1) On February 14, 2003, plaintiff, Fletcher V. McCreary, filed a complaint against defendants Lima Correctional Institution and State Highway Patrol. Plaintiff alleges on January 14, 2003, a drug sniffing dog under the control of both agents of Lima Correctional Institution and the Highway Patrol destroyed his bath robe. Plaintiff seeks damages in the amount of \$22.40 plus reimbursement of the \$25.00 filing fee which he submitted with the complaint;

{¶3} 2) On April 17, 2003, defendant, Lima Correctional Institution, filed an investigation report admitting liability and acknowledged plaintiff suffered damages in the amount of \$47.40.

{¶4} THE COURT CONCLUDES THAT:

{¶5} 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;

{¶6} 2) Plaintiff has suffered damages in the amount of

\$22.40, 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.

{¶7} 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 plaintiff in the amount of \$47.40 which includes the filing fee. Court costs are assessed against defendant. 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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