

[Cite as *Matthews v. Corrections Reception Ctr.*, 2003-Ohio-5471.]

IN THE COURT OF CLAIMS OF OHIO

JOHN MATTHEWS :

Plaintiff :

v. :

CASE NO. 2003-04201-AD

CORRECTIONS RECEPTION CENTER :

MEMORANDUM DECISION

Defendant :

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FINDINGS OF FACT

{¶1} 1) Plaintiff, John Matthews, an inmate incarcerated at defendant, Corrections Reception Center (CRC), asserted his ring was confiscated by a CRC employee on or about June 14, 2002. Plaintiff further asserted the confiscated ring was subsequently lost while under the custody of CRC personnel.

{¶2} 2) Consequently, plaintiff filed this complaint seeking to recover \$100.00 for the loss of his ring, plus \$25.00 for filing fee reimbursement.

{¶3} 3) Defendant denied losing plaintiff's ring. Defendant contended plaintiff failed to produce evidence establishing he owned the ring or that the ring was lost while under the control of CRC staff. Additionally, defendant contended plaintiff has failed to submit any evidence to indicate his ring had a value of \$100.00.

{¶4} 4) On July 17, 2003, plaintiff filed a motion for extension of time to submit a response to the investigation report.

{¶5} 5) On August 8, 2003, plaintiff filed a response. He submitted evidence showing he owned two rings. Plaintiff also submitted documentation showing CRC staff took control of two rings which belong to plaintiff. Furthermore, plaintiff submitted multiple informal complaints filed with defendant regarding the loss of his ring.

{¶6} 6) After reviewing all evidence available the trier of fact finds, in all probability, plaintiff's ring was lost or stolen while under defendant's control. The trier of fact finds plaintiff's valuation of his ring to be reasonable.

CONCLUSIONS OF LAW

{¶7} 1) 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.

{¶8} 2) 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.

{¶9} 3) 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.

{¶10} 4) 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. Plaintiff has offered sufficient evidence to prove defendant's conduct caused the property loss claimed.

{¶11} 5) Negligence has been shown in respect to the loss of plaintiff's ring. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶12} 6) The assessment of damages is a matter within the province of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42.

{¶13} 7) Where the existence of damage is established, the evidence need only tend to show the basis for the computation of damages to a fair degree of probability. *Brewer v. Brothers* (1992), 82 Ohio App. 3d 148. Only a reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶14} 8) As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239.

{¶15} 9) The court finds defendant liable to plaintiff in the amount of \$100.00, 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.

{¶16} Plaintiff's motion for extension of time to file a response to the investigation report is MOOT. 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 \$125.00, 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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