

[Cite as *Melson v. Ohio Dept. of Rehab. & Corr.*, 2003-Ohio-3615.]

IN THE COURT OF CLAIMS OF OHIO

ERIC T. MELSON	:	
Plaintiff	:	
v.	:	CASE NO. 2003-04236-AD
OHIO DEPARTMENT OF REHABILITATION AND CORRECTION	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
	:	
.....	:	

FINDINGS OF FACT

{¶1} 1) Plaintiff, Eric T. Melson, an inmate incarcerated at defendant's Grafton Correctional Institution, suffered property damage on January 28, 2003, when an unidentified individual poured water into the inner workings of plaintiff's television set. The television set was rendered totally inoperative by the water damage.

{¶2} 2) Plaintiff filed this complaint seeking to recover \$197.50, the replacement cost of a new television set, plus filing fee reimbursement. Plaintiff has asserted defendant should bear the responsibility for the damage to his television set.

{¶3} 3) Defendant denied liability. Defendant maintained it is not responsible for the acts of others. Defendant denied breaching any duty owed to plaintiff.

{¶4} 4) Plaintiff filed a response contending defendant's security for protection of his property was inadequate.

CONCLUSIONS OF LAW

{¶5} 1) 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.

{¶6} 2) Defendant is not responsible for acts committed by inmates unless an agency relationship is shown or it is shown that defendant was negligent. *Walker v. Southern Ohio Correctional Facility* (1978), 78-0217-AD.

{¶7} 3) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that the 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} 4) Plaintiff has the burden of proving, by a preponderance of the evidence, that he suffered a loss and that his loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD.

{¶9} 5) 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.

{¶10} 6) Plaintiff has failed to show any causal connection between the damage to his television set and any breach of a duty owed by defendant in regard to protecting inmate property. *Druckenmiller v. Mansfield Correctional Inst.* (1998), 97-11819-AD.

{¶11} 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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RDK/laa
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