

[Cite as *Flagner v. S. Ohio Correctional Facility*, 2003-Ohio-6593.]

IN THE COURT OF CLAIMS OF OHIO

H. BRANDON LEE FLAGNER :

Plaintiff :

v. :

CASE NO. 2003-06638-AD

SOUTHERN OHIO CORRECTIONAL FACILITY :

MEMORANDUM DECISION

Defendant :

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{¶1} THE COURT FINDS THAT:

{¶2} 1) On June 9, 2003, plaintiff filed a complaint against defendant, Southern Ohio Correctional Facility. Plaintiff alleges on March 17, 2003, C.O. Stroud directed plaintiff to remove his wedding ring prior to his transfer from Ross Correctional Institution to defendant. Plaintiff's wedding ring was taped to the side of his television set. Upon his arrival at defendant, his wedding ring could not be located. Plaintiff seeks damages in the amount of \$122.21, of which \$95.00 represents the value of his wedding ring, \$25.00 for reimbursement of the filing fee and \$2.21 for the cost of forms and postage;

{¶3} 2) On June 26, 2003, defendant was served with a copy of the complaint;

{¶4} 3) On September 10, 2003, this court issued an entry requiring defendant to file the investigation report within 14 days of the date of the entry;

{¶5} 4) On October 20, 2003, plaintiff submitted a letter requesting default judgment be rendered in his favor since the defendant failed to timely file the investigation report. Attached to the letter, was a copy of a disposition of grievance dated May 13, 2003, and signed by the Inspector of Institutional Services. The disposition of grievance in pertinent part states:

{¶6} “I have checked SOCF’s Property Room and with Office Stroud. This office agrees that Officer Stroud did not properly handle your property. This issue has been addressed to his supervisor and in a report to the Warden. Unfortunately, I have been unable to locate your ring. To obtain compensation for your loss, you will have to file a Court of Claims. Forms and instructions for such are available from Legal Services. Once you file your claim a copy of this disposition and a report admitting liability will be submitted to the Court.”;

{¶7} 5) On October 29, 2003, defendant filed an investigation report admitting liability and asserting plaintiff should be granted judgment in the amount of \$95.00 plus filing fee reimbursement.

{¶8} THE COURT CONCLUDES THAT:

{¶9} 1) I find, by a preponderance of the evidence, that defendant’s negligence resulted in the loss of his property. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD;

{¶10} 2) Plaintiff is not entitled to expenses related to the prosecution of his case. *Hamman v. Witherstrine* (1969), 20 Ohio Misc. 77. Accordingly, plaintiff’s claim for \$2.21 for form and postage expenses is denied;

{¶11} “3) Plaintiff has suffered damages in the amount of \$95.00, 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.

{¶12} Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, plaintiff’s motion for default judgment is MOOT and judgment is rendered in favor of plaintiff in the amount of \$120.00, 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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11/5
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