

[Cite as *Anthony v. Lorain Correctional Inst.*, 2003-Ohio-6266.]

IN THE COURT OF CLAIMS OF OHIO

SCOTT ANTHONY :
Plaintiff :
v. : CASE NO. 2003-07651-AD
LORAIN CORR. INST. : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

“1) On January 21, 2003, plaintiff, Scott Anthony, an inmate incarcerated at Lake Erie Correctional Institution (LAECI), was transferred to a segregation unit. Incident to this transfer, plaintiff’s personal property was inventoried, packed, and delivered into the custody of LAECI staff. Among the packed property was a pair of boots.

“2) On February 4, 2003, plaintiff and his property were transferred from LAECI to defendant, Lorain Correctional Institution (LorCI). Plaintiff related he was wearing his boots at the time he was transferred from LAECI to LorCI. Plaintiff explained that when he arrived at LorCI he was ordered to remove his boots and hand them over to LorCI personnel.

“3) On February 6, 2003, plaintiff and his personal property were transferred from LorCI to the Richland Correctional Institution (RiCI). Plaintiff claimed his boots were not among his packed property items which were transferred from LorCI to RiCI. Plaintiff asserted his boots were lost while under the custody of LorCI staff. Consequently, plaintiff filed this complaint seeking to recover \$120.00, the estimated value of his alleged lost boots. Plaintiff submitted the filing fee with the complaint.

“4) Defendant denied any liability in this matter. Defendant denied receiving delivery of any boots from plaintiff when he was transferred to LorCI. Defendant asserted LorCI staff inventoried plaintiff’s property. No boots were noted on the inventory (2/04/03). Defendant submitted a copy of plaintiff’s property inventory compiled on February 6, 2003. This inventory does not list a pair of boots, but does bear plaintiff’s signature acknowledging the inventory as a complete accurate list of his personal property.

“5) On October 10, 2003, plaintiff filed a response to defendant’s investigation report. Plaintiff insisted he delivered his boots to LorCI personnel after wearing the boots on the transfer from LAECI to LorCI. Plaintiff contended his boots were lost while under the control of LorCI staff.

CONCLUSIONS OF LAW

“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.

“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.

“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.

“4) Plaintiff’s failure to prove delivery of his boots 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.

“5) Plaintiff has failed to prove, by a preponderance of the evidence, his listed property was lost or stolen as a proximate result of any negligent conduct attributable to defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

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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10/17
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