

[Cite as *Elkins v. Ohio State Penitentiary*, 2004-Ohio-1353.]

IN THE COURT OF CLAIMS OF OHIO

JEREMIE ELKINS :
Plaintiff :
v. : CASE NO. 2003-11470-AD
OHIO STATE PENITENTIARY : MEMORANDUM DECISION
Defendant :

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{¶1} THE COURT FINDS THAT:

{¶2} 1) On November 18, 2003, plaintiff, Jeremie Elkins, filed a complaint against defendant, Ohio State Penitentiary, alleging his sweat shirt was lost by defendant's personnel. Plaintiff seeks damages in the amount of \$12.50 for property loss, plus the \$25.00 filing fee;

{¶3} 2) On January 27, 2004, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$12.36 for property loss;

{¶4} 3) On February 4, 2004, plaintiff submitted a response expressing his agreement to accept \$12.36 in damages for his property loss.

{¶5} THE COURT CONCLUDES THAT:

{¶6} 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;

{¶7} 2) Plaintiff has suffered damages in the amount of \$12.36, 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.

{¶8} 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 \$37.36, 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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Plaintiff, Pro se

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For Defendant

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