

IN THE COURT OF CLAIMS OF OHIO

ANTHONY HUNTER :
Plaintiff :
v. : CASE NO. 2003-11569-AD
DEPARTMENT OF REHABILITATION : MEMORANDUM DECISION
AND CORRECTION :
Defendant :
: :
: :
: :

FINDINGS OF FACT

{¶1} Plaintiff, Anthony Hunter, an inmate incarcerated at defendant's Mansfield Correctional Institution, asserted he was denied access to his Smith Corona Wordsmith 250 typewriter pursuant to defendant's internal policy restriction. Plaintiff was denied access to his typewriter because the appliance exceeded defendant's policy limitation of one-line memory for typewriters. Plaintiff authorized the mailing of his typewriter from defendant's institution on or about October 8, 2003.

{¶2} Plaintiff contended he should have been permitted to retain his typewriter. He has filed this complaint seeking to recover "\$130.00 loss for price of typewriter; \$30.00 loss for price of unusable accessories for typewriter; \$25.00 loss for copies, postage, and production and preparation of this action; \$500.00 damages for loss of use and the inconvenience caused by loss of use; \$500.00 for disciplinary sanctions imposed on the plaintiff; and \$25.00 for filing fee in Court of Claims; also \$6.67 for loss for postage in sending typewriter out of prison under direct order." Plaintiff's total damage claim amounts to

\$1,216.67. Defendant maintained plaintiff's typewriter was disallowed because

{¶3} the property contained multiple lines of memory, a condition which violated defendant's internal policy. Defendant insisted the typewriter was prohibited pursuant to policy restrictions. Additionally, defendant has contended plaintiff did not suffer a property loss since the typewriter was not lost or destroyed. Defendant had admitted liability for the postage loss of \$6.67, plaintiff was assessed to send the typewriter home, plus \$25 for filing fees.

{¶4} Plaintiff filed a response. The information contained in plaintiff's response does not support his claim for entitlement to any damages based on defendant's act.

CONCLUSIONS OF LAW

{¶5} The state cannot be sued for the exercise of any executive planning function involving the making of a policy decision characterized by a high degree of discretion. *Reynolds v. State* (1984), 14 Ohio St. 3d 68. In the instant claim, defendant is immune from suit based on a policy decision to declare plaintiff's typewriter impermissible property. An inmate plaintiff is barred from pursuing a claim for the loss of restricted property when such property is declared impermissible pursuant to departmental policy. *Zerla v. Dept. of Rehab. and Corr.* (2001), 2000-09849-AD; *Clark v. Dept. of Rehab. & Corr.* (2002), 2002-03881-AD. Therefore, plaintiff's claim shall be dismissed in its entirety. The court shall disregard any admission made by defendant.

{¶6} 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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Plaintiff, Pro se

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For Defendant

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