[Cite as Flagner v. Southern Ohio Correctional Facility, 2005-Ohio-610.]

IN THE COURT OF CLAIMS OF OHIO

H. BRANDON LEE FLAGNER :

Plaintiff :

v. : CASE NO. 2004-07808-AD

SOUTHERN OHIO CORRECTIONAL : MEMORANDUM DECISION

FACILITY

:

Defendant

THE COURT FINDS THAT:

- $\{\P 1\}$ 1) On August 2, 2004, H. Brandon Lee Flagner, filed a complaint against defendant, Southern Ohio Correctional Facility ("SOCF"), alleging two pairs of pajamas, a blanket, and a large pitcher were lost while under the control of SOCF staff. Plaintiff sought damages in the amount of \$120.00 for property loss, plus \$25.00 for filing fee reimbursement;
- $\{\P\,2\}\,$ 2) On October 22, 2004, defendant filed an investigation report admitting liability for the loss of one pair of pajamas and a blanket. Defendant asserted plaintiff's damages should be limited to \$50.00 for he loss of his property;
- $\{\P\,3\}\,$ 3) On November 8, 2004, plaintiff filed a response in which he agreed to accept a damage award for the loss of one blanket and one set of pajamas. Plaintiff apparently dismissed his claim for a second set of pajamas and a large pitcher. Plaintiff claimed damages in the amount of \$95.00.

THE COURT CONCLUDES THAT:

 $\{\P4\}$ 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;

- $\{\P 5\}$ 2) As trier of fact, this court has the power to award reasonable damages based on evidence presented. Sims v. Southern Ohio Correctional Facility (1988), 61 Ohio Misc. 2d 239;
- $\{\P 6\}$ 3) Damage assessment is a matter within the function of the trier of fact. Litchfield v. Morris (1985), 25 Ohio App. 3d Reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. Bemmes v. Pub. Emp. Retirement Sys. Of Ohio (1995), 102 Ohio App. 3d 782;
- $\{\P7\}$ 4) The court finds defendant liable to plaintiff in the amount of \$50.00, 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.

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SOUTHERN OHIO CORRECTIONAL : ENTRY OF ADMINISTRATIVE

FACILITY DETERMINATION

:

Defendant

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 \$75.00, 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:

H. Brandon Lee Flagner, #188-413 Plaintiff, Pro se 878 Coitsville-Hubbard Road Youngstown, Ohio 44505

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For Defendant

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