

[Cite as *Griffin v. Ohio Dept. of Corr.*, 2006-Ohio-7150.]

IN THE COURT OF CLAIMS OF OHIO

MARK GRIFFIN :
Plaintiff :
v. : CASE NO. 2005-08271-AD
OHIO DEPARTMENT OF CORRECTIONS : MEMORANDUM DECISION
Defendant :

: : : : : : : : : : : : : : :

FINDINGS OF FACT

{¶ 1} 1) On or about January 27, 2005, an employee of defendant's Mansfield Correctional Institution ("ManCI"), confiscated a cassette player in the possession of plaintiff, Mark Griffin, an inmate. The confiscated cassette player did not have a motor and was consequently, unusable. It is presumed plaintiff removed the motor from the cassette player in effect altering the property item.

{¶ 2} 2) The cassette player was stored under the control of ManCI staff for several months and subsequently destroyed.

{¶ 3} 3) Plaintiff asserted he neither authorized the destruction of the altered cassette player nor was given the opportunity to mail the altered item home. Although defendant's personnel declared the altered cassette player contraband, this declared contraband was destroyed without any court-ordered authorization.

{¶ 4} 4) Plaintiff filed this complaint seeking to recover \$22.99, the total replacement cost of a new unaltered working

cassette player. Plaintiff also seeks damages of \$100.00, "for pain and unwanted stress."

CONCLUSIONS OF LAW

{¶ 5} 1) This court does not recognize any entitlement to damages for mental distress and extraordinary damages for simple negligence involving property loss. *Galloway v. Department of Rehabilitation and Correction* (1979), 78-0731-AD; *Berke v. Ohio Dept. of Pub. Welfare* (1976), 52 Ohio App. 2d 271.

{¶ 6} 2) Generally, an inmate plaintiff may recover the value of confiscated property destroyed by agents of defendant when those agents acted without authority or right to carry out the property destruction. *Berg v. Belmont Correctional Institution* (1998), 97-09261-AD.

{¶ 7} 3) However, plaintiff has no right to pursue a claim for property in which he cannot prove any rightful ownership. *DeLong v. Department of Rehabilitation and Correction* (1988), 88-06000-AD. Defendant cannot be held liable for the loss of contraband property that plaintiff has no right to possess. *Radford v. Department of Rehabilitation and Correction* (1984), 84-09071. An inmate maintains no right of ownership in property which is impermissibly altered and therefore, has no right to recovery when the altered property is destroyed. *Watley v. Ohio Department of Rehabilitation and Correction*, 2005-05183-AD; jud, 2005-Ohio-4320.

{¶ 8} 4) An inmate plaintiff is barred from pursuing a claim for the loss of use of restricted property when such property is declared impermissible pursuant to departmental policy. *Zerla*

Case No. 2005-08271-AD

-2-

MEMORANDUM DECISION

v. Dept. of Rehab. and Corr. (2001), 2000-09849-AD.

Case No. 2005-08271-AD

-2-

MEMORANDUM DECISION

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