

[Cite as *Frazier v. Mansfield Corr. Inst.*, 2006-Ohio-7276.]

IN THE COURT OF CLAIMS OF OHIO

LEONARDO FRAZIER :  
 :  
 Plaintiff :  
 :  
 v. : CASE NO. 2005-09375-AD  
 :  
 MANSFIELD CORRECTIONAL INST. : MEMORANDUM DECISION  
 :  
 Defendant :

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

FINDINGS OF FACT

{¶ 1} 1) On or about March 28, 2005, plaintiff, Leonardo Frazier, an inmate incarcerated at defendant, Mansfield Correctional Institution ("ManCI"), delivered his television set to the ManCI mail room to be mailed to an outside repair shop. Plaintiff pointed out the television set needed to be sent out to have a fuse replaced, a minor repair.

{¶ 2} 2) The television set, originally purchased in 2000, was packed in a cardboard box by ManCI mailroom personnel and delivered to the United States Postal Services ("USPS") to be mailed to the Institutional Television Service for the required repairs. The box holding the television set was filled with shredded paper for packing material utilized to protect the set during the shipping process. The packed television set was forwarded to the USPS, who delivered the package to the Institutional Television Service. On or about April 18, 2005, the Institutional Television Service informed plaintiff by letter that his television had sustained severe damage and

needed major repair.

{¶ 3} 3) Plaintiff has asserted the severe damage to his television set was caused by negligence on the part of ManCI personnel in failing to properly pack the electronic device to safely withstand the rigors of shipping. Consequently, plaintiff filed this complaint seeking to recover \$248.10, the replacement cost of a television set, plus associated expenses.

{¶ 4} 4) Defendant denied plaintiff's property was improperly packaged for safe shipping. Although photographic evidence depicts damage to the package containing the television set, defendant denied the package was damaged while under ManCI control. Defendant suggested the package and television set were damaged after the package had been received by the USPS for mailing. Defendant denied any responsibility for plaintiff's damage.

#### CONCLUSIONS OF LAW

{¶ 5} 1) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that defendant does not have the liability of an insurer (i.e., is not liable without fault) with respect to inmate property, but that it does have the duty to make "reasonable attempts to protect, or recover" such property.

{¶ 6} 2) Although not strictly responsible for a prisoner's property, defendant had at least the 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.

{¶ 7} 3) 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.

{¶ 8} 4) 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.

{¶ 9} 5) Plaintiff has failed to prove, by a preponderance of the evidence, he sustained any loss as a result of any negligence on the part of defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶ 10} 6) Plaintiff has failed to show any causal connection between any damage to his television set and any breach of a duty owed by defendant in regard to protecting inmate property. *Druckenmiller v. Mansfield Correctional Inst.* (1998), 97-11819-AD; *Melson v. Ohio Department of Rehabilitation and Correction*, 2003-04236-AD, 2003-Ohio-3615.

{¶ 11} 7) Defendant is not responsible for an item once it is shipped out of the facility. At that point, the item is the responsibility of the mail carrier. *Owens v. Department of Rehabilitation and Correction* (1986), 85-08061-AD; *Gilbert v. C.R.C.* (1989), 89-12968-AD.

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MANSFIELD CORRECTIONAL INST.	:	<u>ENTRY OF ADMINISTRATIVE</u>
Defendant	:	<u>DETERMINATION</u>

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

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.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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Case No. 2005-09375-AD

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MEMORANDUM DECISION

Columbus, Ohio 43229

RDK/laa

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