

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

MICHAEL BUGG

Plaintiff

v.

MANSFIELD CORRECTIONAL INST.

Defendant

Case No. 2008-04030-AD

Clerk Miles C. Durfey

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) On August 2, 2007, at approximately 10:45 a.m., plaintiff, Michael Bugg, an inmate incarcerated at defendant Mansfield Correctional Institution (ManCI), was involved in a fight with his cellmate, inmate Barnes #507-583. Plaintiff recalled that after the fight was broken up by ManCI personnel, Barnes was locked inside the cell that they shared (cell 2C-111) and while locked inside, Barnes destroyed plaintiff's television set by throwing it to the floor.

{¶ 2} 2) Plaintiff has implied that his television set was completely destroyed as a proximate result of negligence on the part of defendant. Consequently, plaintiff filed this complaint seeking to recover \$195.54, the replacement cost of a new set. The filing fee was paid.

{¶ 3} 3) Defendant acknowledged that plaintiff's television set was destroyed by Barnes on August 2, 2007. However, defendant denied any liability in this matter contending that plaintiff failed to offer any evidence to prove that his television set was broken as a proximate cause of negligence on the part of ManCI personnel who

stopped the physical altercation between plaintiff and Barnes. Defendant stated that ManCI staff “had no notice that (p)laintiff’s property was in jeopardy of being damaged.” Additionally, defendant observed that “(d)amage to (p)laintiff’s property was not a foreseeable event that (d)efendant could have prevented.”

{¶ 4} 4) Defendant explained that ManCI staff observed plaintiff and Barnes “fighting in cell C2-111 where both inmates were living.” According to defendant, when the two inmates failed to comply with verbal orders to stop fighting “a fight break-up technique was used to break up the fight;” with plaintiff being removed from the cell and secured in the ManCI Barber Shop and Barnes locked inside cell 2C-111. After the inmates had been physically separated, Barnes destroyed plaintiff’s television set. Both inmates were issued conduct reports incident to the fight, with Barnes receiving an additional conduct report in connection with the destruction of plaintiff’s television. Defendant asserted that ManCI personnel acted correctly in acting to stop the inmate-on-inmate fight. Defendant further asserted that proper policy was observed in separating the fighting inmates. Defendant denied any responsibility for the damage to plaintiff’s television set. Defendant denied having any prior indication that Barnes intended to destroy plaintiff’s television set. Defendant noted that Barnes destroyed the television immediately after being secured in cell 2C-111.

{¶ 5} 5) Plaintiff filed a response contending that defendant should bear liability for the damage to his television due to the fact ManCI personnel failed to handcuff Barnes before securing him in cell 2C-111. Plaintiff maintained that defendant violated internal policy by not handcuffing Barnes and this violation proximately caused the damage to his set. Plaintiff argued that the failure of defendant’s personnel to handcuff inmate Barnes constituted actionable negligence which resulted in the destruction of his property.

CONCLUSIONS OF LAW

{¶ 6} 1) 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} 2) 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.

{¶ 8} 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.

{¶ 9} 4) Plaintiff must produce evidence which affords a reasonable basis for the conclusion that 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.

{¶ 10} 5) Defendant is not responsible for actions of other inmates unless an agency relationship is shown or it is shown that defendant was negligent. *Walker v. Southern Ohio Correctional Facility* (1978), 78-0217-AD; *Melson v. Ohio Department of Rehabilitation and Correction* (2003), Ct. of Cl. No. 2003-04236-AD, 2003-Ohio-3615; *Jenkins v. Richland Correctional Inst.*, Ct. of Cl. No. 2003-01768-AD, 2003-Ohio-4483.

{¶ 11} 6) In order to prevail, plaintiff must prove, by a preponderance of the evidence, that defendant owed him a duty, that defendant breached that duty, and that defendant's breach proximately caused his damages. *Armstrong v. Best Buy Company, Inc.* 99 Ohio St. 3d 79, 2003-Ohio-2573, 788 N.E. 2d 1088, ¶8 citing *Meniffee v. Ohio Welding Products, Inc.* (1984), 15 Ohio St. 3d 75, 77, 15 OBR 179, 472 N.E. 2d 707.

{¶ 12} 7) “Whether a duty is breached and whether the breach proximately caused an injury are normally questions of fact, to be decided . . . by the court . . .” *Pacher v. Invisible Fence of Dayton*, 154 Ohio App. 3d 744, 2003-Ohio-5333, 798 N.E. 2d 1121, ¶41, citing *Miller v. Paulson* (1994), 97 Ohio App. 3d 217, 221, 646 N.E. 2d 521; *Mussivand v. David* (1989), 45 Ohio St. 3d 314, 318, 544 N.E. 2d 265.

{¶ 13} 8) Ohio law imposes a duty of reasonable care upon the state to provide for its prisoners' health, care, and well-being. *Clemets v. Heston* (1985), 20 Ohio App. 3d 132, 136, 20 OBR 166, 485 N.E. 2d 287. Reasonable care or ordinary care is that degree of caution and foresight which an ordinarily prudent person would employ in similar circumstances. *Smith v. United Properties, Inc.* (1965), 2 Ohio St. 2d 310, 31 O.O. 2d 573, 209 N.E. 2d 142.

{¶ 14} 9) Plaintiff has failed to show any causal connection between the damages 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; *Tomblin v. London Correctional Inst.*, Ct. of Cl. No. 2005-03431-AD, 2005-Ohio-4859; *Madden v. Lebanon Correctional Inst.*, Ct. of Cl. No. 2006-06116-AD; jud, 2007-Ohio-1928.

{¶ 15} 10) Prison regulations, including those contained in the Ohio Administrative Code, “are primarily designed to guide correctional officials in prison administration rather than to confer rights on inmates.” *State ex rel. Larkins v. Wilkinson*, 79 Ohio St. 3d 477, 1997-Ohio-139, 683 N.E. 2d 1139, citing *Sandin v. Conner* (1995), 515 U.S. 472, 481-482, 115 S. Ct. 2293, 132 L. Ed. 2d 418. Additionally, this court has held that “even if defendant had violated the Ohio Administrative code, no cause of action would exist in this court. A breach of internal regulations in itself does not constitute negligence.” *Williams v. Ohio Dept. of Rehab. and Corr.* (1993), 67 Ohio Misc. 2d 1, 3, 643 N.E. 2d 1182. Accordingly, to the extent plaintiff alleges that ManCI staff failed to comply with internal prison regulations and the Ohio Administrative Code, he fails to state a claim for relief.

{¶ 16} 11) Based on the facts of this claim, the failure to handcuff the inmate who damaged plaintiff’s property did not constitute actionable negligence and resulting liability. Evidence shows defendant acted properly under the circumstances presented. See *Tolbert v. Lebanon Correctional Inst.*, Ct. of Cl. No. 2007-06942-AD, 2008-Ohio-5152.



Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

MICHAEL BUGG

Plaintiff

v.

MANSFIELD CORRECTIONAL INST.

Defendant

Case No. 2008-04030-AD

Clerk Miles C. Durfey

ENTRY OF ADMINISTRATIVE DETERMINATION

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.

MILES C. DURFEY
Clerk

Entry cc:

Michael Bugg, #358-157
P.O. Box 788
Mansfield, Ohio 44901

Gregory C. Trout, Chief Counsel
Department of Rehabilitation
and Correction
788 West Broad Street
Columbus, Ohio 43222

RDK/laa

10/7

Filed 11/6/08

Sent to S.C. reporter 2/6/09