

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

LAWRENCE WALLS

Plaintiff

v.

ALLEN CORRECTIONAL INSTITUTION

Defendant

Case No. 2008-08345-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Lawrence Walls, an inmate incarcerated at defendant, Allen Correctional Institution (“ACI”), alleged his boots and gym shoes were stolen from his living area on May 22, 2008 while he was asleep.

{¶ 2} 2) Defendant’s staff conducted a prompt, but fruitless search after being informed of the theft. Plaintiff filed this complaint seeking to recover \$136.53, the estimated replacement value of his gym shoes and boots. Plaintiff implied his property was stolen as a result of some negligent act or omission on the part of defendant.

{¶ 3} 3) Defendant denied liability in this matter contending plaintiff failed to produce any evidence to establish his shoes were stolen as a proximate cause of any negligence on the part of ACI personnel. Defendant explained plaintiff had access to a lock and a locker box in which to secure his property, but failed to properly secure the items.

{¶ 4} 4) Plaintiff filed a response stating he “agrees he did not secure his shoes in his locker box because he could not fit them in with the rest of his property.”

Plaintiff explained he put his boots and gym shoes under his bunk in a living area housing twenty-seven other inmates.

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) The fact defendant supplied plaintiff with a locker and lock to secure his valuables constitutes prima facie evidence of defendant discharging its duty of reasonable care. *Watson v. Department of Rehabilitation and Correction* (1987), 86-02635-AD.

{¶ 9} 5) The mere fact that a theft occurred is insufficient to show defendant’s negligence. *Custom v. Southern Ohio Correctional Facility* (1985), 84-02425. Plaintiff must show defendant breached a duty of ordinary or reasonable care. *Custom*.

{¶ 10} 6) Defendant is not responsible for thefts committed by 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.

{¶ 11} 7) 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.

{¶ 12} 8) Plaintiff has failed to prove, by a preponderance of the evidence, that his property was stolen as a proximate result of any negligence on the part of defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

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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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa

4/21
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