

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

DUANE BROWN

Plaintiff

v.

ROSS CORRECTIONAL INSTITUTION

Defendant

Case No. 2008-09635-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} Plaintiff, Duane Brown, filed a complaint against defendant, Ross Correctional Institution, which stated: “Male 14 K Gold Diamond Ring Belonging to Raymond Brown #198-854. The ring was given to Raymond by his brother, Duane Brown, which belonged to their deceased father. When I Duane Brown received his property the ring was not present.” Plaintiff seeks damages in the amount of \$2,000.00.

{¶ 2} Defendant filed a motion to dismiss pursuant to Civ.R. 12(B)(6), failure to state a claim upon which relief can be granted. Furthermore, defendant asserts the claim should be denied pursuant to Civ.R. 17, since plaintiff is not the real party in interest.

{¶ 3} Defendant asserts plaintiff’s claim should be dismissed since he has failed to allege any negligent action or omission on the part of defendant caused the loss of the ring. In the alternative, defendant asserts, based on plaintiff’s pleadings, plaintiff was not the owner of the ring in question but his brother. Therefore, plaintiff is not the real party in interest.

{¶ 4} Upon review of the pleadings, this court finds that plaintiff has failed to state a claim upon which relief can be granted. He has not alleged what negligent act defendant engaged in or presented any evidence tying defendant to the loss of the ring in question. Since plaintiff’s claim is denied pursuant to Civ.R. 12(B)(6), the issues

raised by Civ.R. 17 need not be addressed. Therefore, defendant's motion to dismiss is GRANTED. Plaintiff's case is DISMISSED. The court shall absorb the court costs of this case.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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DRB/laa
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