

# 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

WILLIAM H. PAYTON

Plaintiff

v.

PICKAWAY CORRECTIONAL INSTITUTION

Defendant

Case No. 2009-03983-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

### FINDINGS OF FACT

{¶ 1} 1) Plaintiff, William H. Payton, an inmate incarcerated at defendant, Pickaway Correctional Institution (“PCI”), asserted that multiple items of his personal property were lost or stolen while under the custody and control of PCI staff after the property had been packed on February 5, 2008.

{¶ 2} 2) Plaintiff claimed the following property items are missing: one razor, one cd player, one set of headphones, one guitar tuner, one beard trimmer, one blue blanket, five blue t-shirts, two cassette tapes, two books, “Music Books,” two locks, and assorted food stuffs and tobacco products purchased from the PCI commissary. The food stuffs include: string cheese, candy bars, cookies, doughnuts, coffee, beef stew, popcorn, soda pop, chips, nachos, and hot fries. Plaintiff filed this complaint seeking to recover damages in the amount of \$268.50 for property loss. The \$25.00 filing fee was paid and plaintiff requested reimbursement of that cost along with his damage claim. Plaintiff submitted evidence establishing he purchased a guitar tuner, razor, cd player, cassette tapes, books, beard trimmers, headphones, and “Music Books.” Plaintiff also

submitted receipts showing he purchased tobacco and food products at the PCI commissary on November 4, 2008, January 14, 2008, January 25, 2008, and February 1, 2008.

{¶ 3} 3) Defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$268.50.

#### CONCLUSIONS OF LAW

{¶ 4} 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.

{¶ 5} 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.

{¶ 6} 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.

{¶ 7} 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.

{¶ 8} 5) Negligence on the part of defendant has been shown in respect to the loss of all property claimed. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶ 9} 6) The court finds defendant liable to plaintiff in the amount of \$268.50, plus the \$25.00 filing fee. *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

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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 plaintiff in the amount of \$293.50, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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RDK/laa  
8/7  
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