

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

PERCY HUTTON

Plaintiff

v.

OHIO STATE PENITENTIARY

Defendant

Case No. 2010-10670-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} Plaintiff, Percy Hutton, an inmate incarcerated at defendant's Ohio State Penitentiary (OSP), filed this action alleging that his personal typewriter required maintenance and repairs as a result of using the typewriter during his work assignment at OSP. Plaintiff asserts the warden and deputy warden at OSP agreed to pay for the necessary repairs. According to plaintiff, the typewriter was sent to a service center for repairs and after several weeks, plaintiff was notified that the bill for service had not yet been paid. Plaintiff relates that on November 17, 2009, he received a release of claim form from OSP purporting to pay \$92.72, the stated repair expense. The form noted that the money would be deposited by OSP into plaintiff's inmate account. However, plaintiff claims that any monies placed in his account will be confiscated pursuant to a court order and he will not have use of the funds in order to secure the release of his typewriter from the service center. In his complaint, plaintiff requested damages in the amount of \$92.72. Payment of the filing fee was waived.

{¶ 2} Defendant submitted an investigation report admitting liability and

acknowledging that plaintiff suffered damages in the amount of \$92.72.

{¶ 3} Plaintiff filed a response suggesting defendant agreed to pay for the typewriter repairs and that he had not refused to accept payment. Rather, plaintiff seeks to have the money sent directly to the repair facility in that any monies placed in his inmate account are subject to forfeiture. Thus, plaintiff seeks an order from the court prohibiting defendant from using any monies awarded as reimbursement for outstanding court costs.

CONCLUSIONS OF LAW

{¶ 4} The credibility of witnesses and the weight attributable to their testimony are primarily matters for the trier of fact. *State v. DeHass* (1967), 10 Ohio St. 2d 230, 39 O.O. 2d 366, 227 N.E. 2d 212, paragraph one of the syllabus. The court is free to believe or disbelieve, all or any part of each witness's testimony. *State v. Antill* (1964), 176 Ohio St. 61, 26 O.O. 2d 366, 197 N.E. 2d 548. In the instant action, the trier of fact does not find the statements offered by plaintiff to be particularly persuasive.

{¶ 5} R.C. 5120.133 governs the transmission of funds from an inmate account to satisfy court-ordered payment of court costs. Ohio Adm. Code 5120-5-03 provides the mechanism for the collection of court-ordered costs from inmates. The court of claims lacks jurisdiction to order defendant to refrain from following the mandates promulgated by another court. See *Abdussatar v. Mansfield Corr. Inst.*, Ct. of Cl. No. 2007-09429-AD, 2008-Ohio-3419, *State v. Brown*, 156 Ohio App. 3d 120, 2004-Ohio-558.

{¶ 6} Liability on the part of defendant has been established. Defendant is liable to plaintiff in the amount of \$92.72.



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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 \$92.72. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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SJM/laa

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Filed 4/25/11

Sent to S.C. reporter 8/5/11