

[Cite as *Johnson v. Lorain Correctional Inst.*, 2002-Ohio-4634.]

IN THE COURT OF CLAIMS OF OHIO

JAMES JOHNSON, #406-353	:	
P.O. Box 788	:	
Mansfield, Ohio 44901	:	Case No. 2002-04381-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
LORAIN CORRECTIONAL	:	
INSTITUTION	:	
Defendant	:	

: : : : : : : : : : : : : : : :

For Defendant: Gregory C. Trout, Chief Counsel
 Department of Rehabilitation and
 Correction
 1050 Freeway North
 Columbus, Ohio 43229

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FINDINGS OF FACT

{¶1} 1) On May 9, 2001, plaintiff, James Johnson, an inmate at defendant, Lorain Correctional Institution, authorized the mailing of several property items to the following designated addressee: Tasha Phillips, 1463 East 115, Cleveland, Ohio 44106.

{¶2} 2) A total of \$5.02 was withdrawn from plaintiff's inmate account to cover postage expenses. Plaintiff's property was packaged and delivered to personnel of the United Parcel Service (UPS) for shipping.

{¶3} 3) Plaintiff has alleged the package containing his property was never delivered to his designated addressee. Consequently, plaintiff filed this complaint seeking to recover \$825.00, the estimated value of his personal property. Plaintiff

submitted the filing fee with the complaint.

{¶4} 4) Defendant submitted evidence establishing the package containing plaintiff's property was delivered by UPS on May 10, 2001 at 11:42 a.m. The package was delivered to a person identified as Phillips at an address in Cleveland, Ohio.

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) Defendant is not responsible for an item once it is shipped out of the facility. At that point, the item is the responsibility of the mail carrier. *Owens v. Department of Rehabilitation and Correction* (1986), 85-08061-AD; *Gilbert v. C.R.C.* (1990), 89-12968-AD.

{¶7} 3) 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} 4) 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} 5) Plaintiff has failed to prove, by a preponderance of the evidence, his property was lost as a proximate result of any negligent conduct attributable to defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶10} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶11} IT IS ORDERED THAT:

{¶12} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶13} 2) Court costs are assessed against plaintiff.

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
7/24
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