

[Cite as *Reynolds v. Southern Ohio Correctional Facility*, 2002-Ohio-7230.]

IN THE COURT OF CLAIMS OF OHIO

KEITH REYNOLDS, #191-705 :
P.O. Box 45699 :
Lucasville, Ohio 45699 : Case No. 2002-03236-AD

Plaintiff : MEMORANDUM DECISION

v. :

SOUTHERN OHIO CORRECTIONAL :
FACILITY :

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} On or about January 11, 2001, plaintiff, Keith Reynolds, an inmate, was transferred to defendant, Southern Ohio Correctional Facility (SOCF) from another institution. Plaintiff indicated that when he arrived at SOCF he was informed several of his personal property items were not permissible and he could not retain these impermissible articles. Plaintiff related he was given the option to mail his impermissible property to a designated address or have the items destroyed. Plaintiff chose to mail out his impermissible property. When plaintiff authorized the property mailing he designated an incorrect address for his family member who was to receive the mailing. Although the property was mailed, because of

the incorrect address listing, the articles were returned to SOCF.

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{¶2} Plaintiff stated that after his property was returned to SOCF, he was asked to supply a new address to have the items remailed. Plaintiff explained he was housed in a segregation unit at the time he was asked to provide a new address for the remailing of his impermissible property. Plaintiff also explained he needed his address book to find a new address where his property could be mailed again. Because plaintiff was assigned to a segregation unit he was not permitted to retain his address book, which he asserted was stored in defendant's property room along with the remaining articles of his personal property. Since plaintiff did not have access to his address book he could not designate a new address where his property was to be remailed.

{¶3} Plaintiff maintained he spent eleven months in a segregation unit at defendant's facility. Upon his release, plaintiff asserted he retrieved his address book and attempted to contact defendant's mail room office in order to provide a new address to mail his impermissible property. Plaintiff stated he was informed by defendant's mail room staff that his property had been destroyed. Plaintiff contended defendant had no right and no authorization to destroy his property. Consequently, plaintiff filed this complaint seeking to recover \$324.30 for property loss, plus \$6.10 for postage costs and \$25.00 for filing fee reimbursement. Plaintiff has insisted he suffered these damages as a proximate cause of defendant's unauthorized act.

{¶4} Due to the fact defendant failed to timely file an investigation report, plaintiff repeatedly filed motions for default judgment. Plaintiff last filed a motion for default judgment on October 25, 2002.

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{¶5} Defendant suggested plaintiff's property was apparently destroyed at some time during July 2001. Defendant could not determine if proper procedures were followed in the apparent destruction of plaintiff's property. Defendant has argued plaintiff's own negligence contributed to the loss of his property due to the fact plaintiff failed to initially supply a correct address for the mailing of his property. Defendant denied plaintiff possessed an address book with correct addresses listed of his family members. Defendant has asserted plaintiff has overstated the value of his property represented in this claim. Defendant contended plaintiff's property did not exceed \$150.00 in value. Defendant contended any damage award should be reduced by the degree of negligence attributable to plaintiff which was causally related to his property loss.

{¶6} Plaintiff filed a response. Plaintiff reasserted his property was destroyed without proper authority. Plaintiff maintained his damage claim is an accurate representation of the value of his property. Plaintiff insisted he owned an address book and was denied access to this book by defendant. Plaintiff has implied the sole cause of his property loss was negligent conduct on the part of defendant.

CONCLUSIONS OF LAW

{¶7} 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 property. *Henderson v. Southern Ohio Correctional Facility* (1979), 76-0356-AD.

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{¶8} An inmate plaintiff may recover the value of confiscated property destroyed by agents of defendant when those agents acted without authority or right to carry out the property destruction. *Berg v. Belmont Correctional Institution* (1998), 97-09261-AD.

{¶9} Plaintiff has the burden of proving, by a preponderance of the evidence, that the suffered a loss and that this loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD.

{¶10} Evidence has established defendant's negligence was the sole direct cause of plaintiff's property loss. Negligence has been shown in respect to the loss of plaintiff's property. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶11} Notwithstanding the fact defendant has instituted value restrictions for property possessed by inmates, an inmate plaintiff may recover the market value of property lost through the negligence of defendant if the value can be established within a reasonable degree of certainty. *Gaiter v. Lima Correctional Facility* (1988), 61 Ohio Misc. 2d 293.

{¶12} A plaintiff is competent to testify in respect to the true value of his property. *Gaiter, id.*

{¶13} As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239.

{¶14} Plaintiff's claim for postage is denied. This claim is not related to any improper conduct on the part of defendant and is therefore noncompensable.

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{¶15} Plaintiff has suffered damages in the amount of \$324.30, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19..

DANIEL R. BORCHERT
Deputy Clerk

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