

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

KY THOMPSON

Plaintiff

v.

OHIO DEPT. OF REHAB. AND
CORRECTIONS

Defendant

Case No. 2006-02030-AD

Daniel R. Borchert

Deputy Clerk

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Ky Thompson, an inmate incarcerated at defendant's Mansfield Correctional Institution ("ManCI"), contended ManCI personnel entered his cell on June 26, 2004, conducted a shakedown search of the cell, and damaged several property items stored in the cell during the course of the search.

{¶ 2} 2) Plaintiff asserted his television set, blanket, sweat shirt, sweat pants, baby oil, soap, and toothpaste were damaged by ManCI staff. Consequently, plaintiff filed this complaint seeking to recover \$210.32, the estimated replacement cost of his alleged damaged property, plus \$25.00 for filing fee reimbursement. The filing fee was paid.

{¶ 3} 3) Defendant acknowledged plaintiff's cell was searched on June 26, 2004. However, defendant denied any ManCI employee damaged any of plaintiff's property while the search was being conducted. Defendant admitted plaintiff's television set does not function and has some minor visible damage. Defendant asserted plaintiff failed to produce sufficient evidence to establish any of his property was damaged by ManCI staff.

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) In order to recover against a defendant in a tort action, plaintiff must produce evidence which furnishes a reasonable basis for sustaining his claim. If his evidence furnishes a basis for only a guess, among different possibilities, as to any essential issue in the case, he fails to sustain the burden as to such issue. *Landon v. Lee Motors, Inc.* (1954), 161 Ohio St. 82.

{¶ 9} 6) Plaintiff has failed to prove, by a preponderance of the evidence, he sustained any loss as a result of any negligence on the part of defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

{¶ 10} 7) Plaintiff has failed to show any causal connection between any damage to his television set and other property and any breach of a duty owed by defendant in regard to protecting inmate property. *Druckenmiller v. Mansfield Correctional Inst.* (1998), 97-11819-AD; *Melson v. Ohio Department of Rehabilitation and Correction* (2003), 2003-04236-AD, 2003-Ohio-3615.

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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 defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Ky Thompson, #311-848
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Plaintiff, Pro se

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For Defendant

RDK/laa

9/20
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