

# 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

HARMONY LOVE

Plaintiff

v.

OHIO REFORMATORY FOR WOMEN

Defendant

Case No. 2006-06710-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

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### FINDINGS OF FACT

{¶ 1} 1) On or about June 1, 2006, plaintiff, Harmony Love, an inmate incarcerated at defendant, Ohio Reformatory for Women (“ORW”), delivered several items of her personal property into the custody of ORW staff and authorized the mailing of the property to a family member in Cleveland.

{¶ 2} 2) ORW personnel placed the delivered personal property into a box marked “corrosive” and mailed the box containing the property through the United States Postal Services (“USPS”). The box was received at a USPS office in Cincinnati. The USPS would not forward or return the box due to the fact it was marked “corrosive.”

{¶ 3} 3) Plaintiff asserted the box contained one gold chain and medallion, a coin (brass), one jacket, one sweater, a pair of jeans, and one t-shirt. Plaintiff calculated the total value of her property, plus shipping costs at \$511.62. Plaintiff filed this complaint seeking to recover that amount. Plaintiff contended her property was lost as a result of negligence on the part of ORW personnel attempting to mail the items in a box marked “corrosive.” Payment of the filing fee was waived.

{¶ 4} 4) Defendant acknowledged property was delivered to ORW staff, placed in a box, and mailed. Defendant does not have specific knowledge concerning what happened to the box after it arrived at the USPS office in Cincinnati. Defendant suggested the box could have been delivered or picked up by a friend or family member of plaintiff.

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Defendant denied any liability in this matter. Defendant did not address the issue regarding why inmate property was mailed in a box deliberately marked “corrosive.”

{¶ 5} 5) Plaintiff responded, insisting her property was never delivered to her family member. Plaintiff asserted all items claimed were placed in a box and were mailed, but were never received. Evidence in the form of a submitted property inventory indicates a jacket, a necklace, sweater, sweatshirt, jeans, metal coin, t-shirt, papers, and cigarettes were declared contraband by ORW on June 1, 2006, and then mailed from the institution at a cost of \$6.62. Plaintiff submitted a receipt showing she paid \$267.98 for “gold chains” and additional gold items on January 30, 2006.

#### CONCLUSIONS OF LAW

{¶ 6} 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 liability without fault) with respect to inmate property, but that it does have the duty to make “reasonable attempts to protect, or recover” such property.

{¶ 7} 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.

{¶ 8} 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.

{¶ 9} 4) Negligence on the part of defendant has been shown in respect to the issue of property protection. *Billups v. Department of Rehabilitation and Correction* (2001), 2000-10634-AD; jud.

{¶ 10} 5) 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.

{¶ 11} 6) The standard measure of damages for personal property loss is

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market value. *McDonald v. Ohio State Univ. Veterinary Hosp.* (1994), 67 Ohio Misc. 2d 40.

{¶ 12} 7) In a situation where a damage assessment for personal property destruction based on market value is essentially indeterminable, a damage determination may be based on the standard value of the property to the owner. This determination considers such factors as value to the owner, original cost, replacement cost, salvage value, and fair market value at the time of the loss. *Cooper v. Feeney* (1986), 34 Ohio App. 3d 282.

{¶ 13} 8) Notwithstanding the fact defendant has instituted value restrictions for property possessed by inmates, an inmate plaintiff may recover the market value of property damaged 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. A plaintiff is competent to testify in respect to the true value of his property. *Gaiter, Id.*

{¶ 14} 9) The court finds defendant liable to plaintiff in the amount of \$511.62.



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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 \$511.62. Court costs are assessed against defendant. 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:

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RDK/laa  
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