

[Cite as *Miller v. N. Central Correctional Inst.*, 2003-Ohio-6264.]

IN THE COURT OF CLAIMS OF OHIO

REGGIE MILLER :  
 :  
 Plaintiff :  
 :  
 v. : CASE NO. 2003-06735-AD  
 :  
 NORTH CENTRAL CORRECTIONAL : MEMORANDUM DECISION  
 INSTITUTION :  
 :  
 Defendant :  
 :  
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FINDINGS OF FACT

{¶1} 1) On October 23, 2002, an employee of defendant, North Central Correctional Institution, confiscated a JVC Walkman from the possession of plaintiff Reggie Miller, an inmate.

{¶2} 2) The confiscated property was subsequently destroyed by defendant’s personnel. Consequently, plaintiff filed this complaint seeking to recover \$85.00, the estimated replacement cost of a JVC Walkman. Plaintiff also seeks recovery of the \$25.00 filing fee. Furthermore, plaintiff has made a damage request of \$1,000.00 for “mental stress,” presumed associated with the loss of the confiscated electronic device.

{¶3} 3) Defendant admitted liability for the loss of the confiscated JVC Walkman. However, defendant disputed plaintiff’s damage claim as excessive. Defendant asserted plaintiff’s damages should be limited to \$15.95, the value of a comparable replacement walkman.

{¶4} 4) On August 29, 2003, plaintiff submitted a response to defendant’s investigation report. Plaintiff insisted he is entitled to all damages claimed. Plaintiff submitted evidence showing a JVC Walkman was purchased by a fellow inmate in 1995 for

\$85.00.

#### CONCLUSIONS OF LAW

{¶5} 1) A plaintiff does not have a cause of action to recover damages for mental anguish attendant to the loss of his property.

{¶6} 2) Negligence on the part of defendant has been shown in respect to the loss of property. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶7} 3) The assessment of damages is a matter within the province of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42.

{¶8} 4) Where the existence of damage is established, the evidence need only tend to show the basis for the computation of damages to a fair degree of probability. *Brewer v. Brothers* (1992), 82 Ohio App. 3d 148. Only reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶9} 5) The court finds defendant liable to plaintiff in the amount of \$30.00, 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.

{¶10} 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 \$55.00, which includes the filing fee. 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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10/16  
Filed 10/24/03  
Sent to S.C. reporter 11/24/03