

[Cite as *Riggins v. S. Ohio Correctional Facility*, 2005-Ohio-6119.]

IN THE COURT OF CLAIMS OF OHIO

ANTHONY RIGGINS :
Plaintiff :
v. : CASE NO. 2005-07089-AD
SOUTHERN OHIO CORRECTIONAL : MEMORANDUM DECISION
FACILITY :
Defendant :
: : : : : : : : : : : : : : : :

FINDINGS OF FACT

{¶ 1} 1) On or about February 23, 2005, plaintiff, Anthony Riggins, an inmate incarcerated at defendant, Southern Ohio Correctional Facility ("SOCF"), was transferred to a segregation unit. Incident to this transfer, plaintiff's personal property was inventoried, packed, and delivered into defendant's custody. Upon his release from segregation, plaintiff's packed property items were returned to his possession.

{¶ 2} 2) Plaintiff has alleged several items of his personal property were lost while under defendant's control. Specifically, plaintiff alleged his radio parts, seventy photographs, two bags of coffee, eleven stamped envelopes, four packs of loose tobacco, one handkerchief, four batteries, one hair grease, one brush, one bowl, ten magazines, one tablet, two deodorants, 3 bars of soap, and legal papers, letters and transcripts were missing. Plaintiff filed this complaint seeking to recover \$188.59, the estimated replacement value of his alleged missing property.

{¶ 3} 3) Defendant has denied any liability in this matter. Defendant asserted all property packed by SOCF staff on February

23, 2005, was returned to plaintiff's possession. Defendant denied any of plaintiff's property items were lost, stolen, or discarded while under the control of SOCF personnel.

{¶ 4}4) Plaintiff filed a response insisting all property claimed was either lost while under defendant's control or thrown away by defendant's employees.

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) 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.

{¶ 7}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.

{¶ 8}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.

{¶ 9}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

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:

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Plaintiff, Pro se

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For Defendant

RDK/laa
10/6
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