

[Cite as *Woodruff v. Richland Correctional Inst.*, 2005-Ohio-650.]

IN THE COURT OF CLAIMS OF OHIO

JAMES G. WOODRUFF :
Plaintiff :
v. : CASE NO. 2004-07492-AD
RICHLAND CORRECTIONAL INST. : MEMORANDUM DECISION
Defendant :

: : : : : : : : : : : : : : :

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, James G. Woodruff, an inmate incarcerated at defendant, Richland Correctional Institution ("RiCI"), stated his television set was confiscated by RiCI personnel on August 21, 2003, and kept in storage for several days. Plaintiff insisted the television was in "good condition" at the time it was delivered into the custody of RiCI staff.

{¶ 2} 2) Plaintiff related that when his television was subsequently returned to his possession he noticed three or four scratches on the set's casing and three "deep chips" on the television screen. Plaintiff asserted the damage to his television set occurred while the property item was under the control of RiCI staff.

{¶ 3} 3) Consequently, plaintiff filed this complaint seeking to recover \$120.00, the total replacement cost of his television set. The requisite material filing fee was paid.

{¶ 4} 4) Defendant acknowledged plaintiff's television set was confiscated on August 21, 2003. However, defendant denied the set was damaged in any way while under the custody and care of RiCI

personnel. Defendant examined plaintiff's television and noted three small chips in the center of the screen about "the size of a tip of a ball point pen." Also noted was a small scratch on the left side of the set. Defendant observed two channel changing buttons were missing from the front of the television. Photographs depicting the damage to the television were submitted. The trier of fact, upon examination of these photographs, finds the damage depicted to be minor and insignificant.

{¶ 5} 5) Defendant explained plaintiff's television set was stored in a secure location. Defendant denied any RiCI employees damaged the set. Defendant contended plaintiff has failed to produce sufficient evidence to show his television was damaged while under the control of RiCI staff. On November 8, 2004, plaintiff filed a response to defendant's investigation report. However, plaintiff has not provided sufficient evidence to prove his property was damaged while in the custody and care of defendant.

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 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.

{¶ 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) 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.

{¶ 10}...5) 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.

{¶ 11} 6) Plaintiff has failed to show any causal connection between any damage to his television set and any breach of a duty owed by defendant in regard to his television set 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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 : CASE NO. 2004-07492-AD
RICHLAND CORRECTIONAL INST. : ENTRY OF
ADMINISTRATIVE : DETERMINATION
Defendant :

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:

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