

IN THE SUPREME COURT OF OHIO

STATE OF OHIO ex rel.,
RONALD BLOODWORTH-#366-695
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

CASE NO.21-1081

Relator

V.

ORIGINAL ACTION IN MANDAMUS

COLLEEN O'DONNELL, Honorable
Judge, Franklin County Court
of Common Pleas
345 South High Street, Fl.1B
Columbus, Ohio 43215

Respondent

AMENDED/CORRECTED
COMPLAINT FOR A WRIT OF PROCEDENDO AND/OR
PEREMPTORY WRIT OF MANDAMUS

G. GARY TYACK, (0017524)
Prosecuting Attorney
Franklin County, Ohio

ANTHONY C. CHAMBERS (0097776)
Assistant Prosecuting Attorney
373 South High Street, 13th Floor
Columbus, Ohio 43215

COUNSEL FOR RESPONDENT

RECEIVED

SEP 29 2021

CLERK OF COURT
SUPREME COURT OF OHIO

FILED

SEP 29 2021

CLERK OF COURT
SUPREME COURT OF OHIO

IN THE SUPREME COURT OF OHIO

STATE OF OHIO ex rel.,
RONALD BLOODWORTH

Relator

CASE NO.21-1081

V.

ORIGINAL ACTION IN MANDAMUS

COLLEEN O'DONNELL, Honorable
Judge
FRANKLIN COUNTY COURT OF
COMMON PLEAS

~~COMPLAINT FOR A WRIT OF PROCE-~~
~~DENDO AND/OR PEREMPTORY WRIT~~
~~OF MANDAMUS~~
AMENDED/Corrected

Respondent

1. RONALD BLKODWORTH, Relator, (hereinafter "Relator" or "Bloodworth") pursuant to S.Ct.Prac.R. 12.01, et seq., and Civ.R.15, asks this court for a Writ of Procedendo and/or Peremptory/Alternative Writ of Mandamus directing the Honorable Colleen O'Donnell, Judge of the Franklin County Court of Common Pleas (hereinafter "TC" or "Respondent"), to issue a ruling on the Relator's Applications' for leave to proceed under R.C. 2323.52(F)(1) currently pending before that Honorable Court and her as vested in her by law.
2. Relator is a citizen of the State of Ohio. Relator is a party to OHIO STATE ATTORNEY GENERAL V. RONALD BLOODWORTH, Franklin Common Pleas No.11CVH01-265("underlying case"), a case filed by Ohio State Attorney General's Office pursuant to R.C. 2323.52 in which Bloodworth was unfortunately declared a vexatious litigator in 2011 by the Franklin County Court of Common Pleas. Consequently, Bloodworth must first seek leave of court prior to instituting any court action in Ohio's trial courts.
3. Respondent is charged by law to serve as the administrative conduit through which this statutory scheme is effectuated in the underlying case. O.R.C. 2323.52.
4. The Franklin County Court of Common Pleas is a trial court established pursuant to O Const IV Sec 4A and with jurisdiction established pursuant to R.C. 2305.01.

5. This court has original jurisdiction over petitions for writs of procedendo/mandamus(R.C. 2731.02) and (Art IV, Sec 2 of the Ohio Constitution).

6. On January 28, 2021, Bloodworth filed two(2) separate Motion(s') for Leave To Proceed under R.C. 2323.52(F)(1)(attached hereto and incorporated hereinafter by reference as Exhibit A and Exhibit B)seeking to recover damages for sleep deprivation by virtue of Exhibit A, and seeking to recover damages regarding the negligent loss of his personal property by prison officials by virtue of Exhibit B, by demonstrating through facts, evidence and relevant law, that his proposed action(s') was neither abusive or groundless.

7. Bloodworth has never received a ruling on the motions' for leave to proceed.(See, Exhibit C).

8. The Respondent has refused to provide a ruling on the Relator's two separate motions for leave to proceed under R.C. 2323.52 in violation of the Rules of Superintendance and affirmed by the stare decisis of this fundamental tribunal in State ex rel. Culgan V. Collier, 135 OhioSt. 3d 436(2012).

9. Under Sup.R. 40(A)(3) the Franklin T.C. has a clear legal duty to rule on motions within 120 days of it being filed.

10. The Relator has a clear legal right to expect the Franklin T.C. to observe and comply with Sup.R. 40(A)(3) as written.

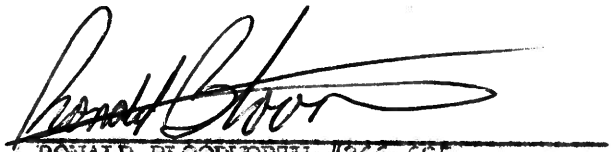
11. The Relator has no adequate remedy at law which is complete, beneficial, and speedy, except the instant filing.

WHEREFORE, Relator, RONALD BLOODWORTH, Prays for a Writ of Procedendo as follows:

1. That a Writ of Procedendo is issued directing the Respondent to rule on the Relator's pending MOTIONS' FOR LEAVE TO PROCEED PURSUANT TO R.C.2323.52; and/or

2. That a Peremptory Writ of Mandamus be Issued in the first instance directing Respondent to rule on the pending motions' for leave to proceed as vested in it by law;
or
3. That an Alternative Writ be issued commanding the Franklin T.C. to rule on the two separate and pending Relator's Motions' for Leave To Proceed Under R.C. 2323.52 or show cause why she has elected not to do so and upon failure to show cause, that a final writ of mandamus be so issued to this respondent;
4. For all other and further relief to which this Relator may be entitled;

Respectfully submitted,


 RONALD BLOODWORTH-#366-695
 TOLEDO CORRECTIONAL INSTITUTION
 2001 East Central Avenue
 Toledo, Ohio 43608

RELATOR, pro se

AFFIDAVIT OF VERITY

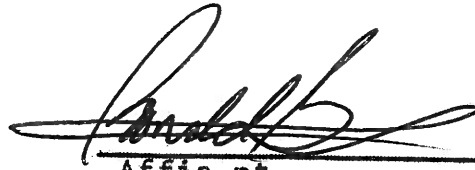
STATE OF OHIO
 SS:
 LUCAS COUNTY

RONALD BLOODWORTH

Pursuant to S.Ct.Prac|R.12.01 et seq., RONALD BLOODWORTH, BEING first duly sworn deposes and states:

1. I am the relator herein; I am proceeding pro seas an inmate;
2. I submit this affidavit in support of the foregoing complaint for Writ of Procedendo and/or Mandamus and I am competent to testify to the facts stated in this complaint as I have personal knowledge of same.
3. The pleadings w/attached exhibits attached hereto are true and correct copies of same that were filed with the franklin county court of common pleas i.e., Exhibit A, at docket entry No|260 & Exhibit B, at Docket Entry No|261 of Exhibit C, and the factual allegations herein are true to the best of my knowledge as I verily believe.

FURTHER AFFIANT SAYETH NAUGHT



Affiant

Sworn to and subscribed in my presence this 27 day of

July, 2021.



NOTARY PUBLIC



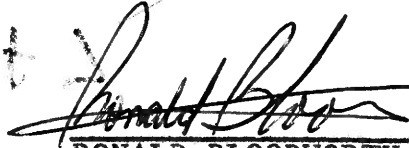
PATRICIA R. CEGLIO
NOTARY PUBLIC - OHIO
MY COMMISSION EXPIRES 08-10-2021

CERTIFICATE OF SERVICE

I mailed a copy of this document September 27, 2021 via ordinary
US mail to

ANTHONY C. CHAMBERS(0097776)
Assistant Prosecuting Attorney
373 South High Street, 13th Floor
Columbus, Ohio 43215

COUNSEL FOR RESPONDENT


RONALD BLOODWORTH

11CV000265

RONALD BLOODWORTH #366-695
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

January 13, 2021

FRANKLIN COUNTY COURT
OF COMMON PLEAS
Mary Ellen O'Shaughnessy, Clerk
General Division
Civil
345 South High Street, Fl. 1B
Columbus, Ohio 43215

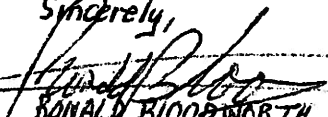
RE: OHIO STATE ATTORNEY GENERAL v. RONALD BLOODWORTH,
Franklin Common Pleas No. 11CV001-265

Dear Clerk:

Enclosed please find the originals of Bloodworth's RC 2323.52 Motion For Leave To Proceed w/attached proposed COMPLAINT captioned: RONALD BLOODWORTH v. FRANKLIN MEDICAL CENTER, et al., served this day upon plaintiff regarding the above captioned case.

Please send me a time stamped copy of the above listed documents.

Sincerely,


RONALD BLOODWORTH

RECEIVED
SEP 29 2021
CLERK OF COURT
SUPREME COURT OF OHIO

EXHIBIT
A

IN THE FRANKLIN COUNTY COURT OF COMMON PLEAS

OHIO STATE ATTORNEY GENERAL

Plaintiff

Franklin Common Pleas Case No.
11CVH01-265

v.

Judge: Colleen O'Donnell

RONALD BLOODWORTH

MOTION FOR LEAVE TO PROCEED
UNDER RC 2323.52 (F)(1)

Defendant


In 2011, Bloodworth was declared a vexatious litigator pursuant to RC 2323.52. Accordingly, he must ask this court for leave to proceed with a civil action in the Franklin County Court of Common Pleas.

The proposed COMPLAINT (attached hereto and incorporated herein by reference as if fully recopied) seeks to recover damages for sleep deprivation.

Conditions that prevent sleep have been held to violate the Eighth Amendment. "Waker v. Scholtz, 717 F.3d 119, 126-127 (citing cases). See, also, Robinson v. Danberg, 729 F. Supp. 2d 666, 683 (D. Del. 2010) (denying motion to dismiss Eighth Amendment claims based on allegations that "defendant took specific acts designed to deprive [plaintiff] of sleep"); Merritt v. Hawk, 153 F. Supp. 2d 1216, 1228 (D. Colo. 2001) (the court adopted and approved the recommendations of the Magistrate Judge that defendant's motion for dismissal/summary judgment be denied on the Eighth Amendment claim of deprivation of sleep... "Defendants are not entitled to qualified immunity on this claim.")

WHEREFORE, for the foregoing reasons, Bloodworth respectfully requests that this Court grant him leave to proceed to file and litigate his viable proposed civil action in this Court.

Respectfully submitted,


RONALD BLOODWORTH #366-693
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

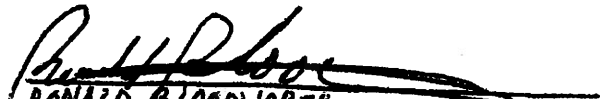
Defendant, pro se

CERTIFICATE OF SERVICE

I mailed a copy of this document January 13, 2020 via
certified US mail to:

DAVE YOST
OHIO ATTORNEY GENERAL
Ohio Attorney General's Office
156 East Gay Street
Columbus, Ohio 43215

COUNSEL FOR PLAINTIFF


RONALD BLOODWORTH

ATTACHMENTS

IN THE FRANKLIN COUNTY COURT OF COMMON PLEAS

RONALD BLOODWORTH #366-695
TOLEDO CORRECTIONAL INSTITUTION
2001 East Central Avenue
Toledo, Ohio 43608

Plaintiff

v.

FRANKLIN MEDICAL CENTER
1990 Harmon Avenue
Columbus, Ohio 43223

and

JENNY HILDEBRAND, Warden
FRANKLIN MEDICAL CENTER
1990 Harmon Avenue
Columbus, Ohio 43223

and

M. COFFEY, Corrections Captain
FRANKLIN MEDICAL CENTER
1990 Harmon Avenue
Columbus, Ohio 43223

and

JANE/JOHN DOE (Name Unknown)
Corrections Captain
FRANKLIN MEDICAL CENTER
1990 Harmon Avenue
Columbus, Ohio 43223

and

JANE DOE (Name Unknown) Corrections
Lieutenant
FRANKLIN MEDICAL CENTER
1990 Harmon Avenue
Columbus, Ohio 43223

and

JANE/JOHN DOE (Names' Unknown) #s' 1-8
Corrections Officers
FRANKLIN MEDICAL CENTER
1990 Harmon Avenue
Columbus, Ohio 43223

Defendants

Case No.

Judge:

Magistrate Judge:

COMPLAINT

IN THE FRANKLIN COUNTY COURT OF COMMON PLEAS

RONALD BLOODWORTH
Plaintiff

v.

FRANKLIN MEDICAL CENTER,
et al.,
Defendants

Case No.

JUDGE:
MAGISTRATE JUDGE:

COMPLAINT

I. JURISDICTION

1. Jurisdiction is conferred on this Court pursuant to Ohio Revised Code Section 2305.01.
2. Plaintiff's action for money damages is authorized by Title 42 U.S.C. Section 1983, which provides redress for the deprivation under color of state law of rights, privileges or immunities secured by the United States Constitution.

II. PARTIES

3. Plaintiff, RONALD BLOODWORTH, inmate number 366-695, is and was at all times mentioned herein an inmate housed at the Franklin Medical Center (FMC).
4. The Franklin Medical Center is a state office or agency as defined in RC 149.011 (A) and (B), with public officials as defined in RC 149.011 (D), and as discussed below being the actors and agents of said state agency who have acted to deprive plaintiff of one of life's basic necessities, vis-a-vis sleep.
5. The Warden of the Franklin Medical Center is charged under Ohio Revised Code, Section 5120.38, with immediate, executive control and management of FMC, its prison staff members and inmates therein.

6. Defendant M. Coffey, Captain, is a shift commander at FMC, whose responsibilities include evaluating employee incidents for possible discipline.
7. Defendant JOHN DOE (Name Unknown), Captain, is a shift commander at FMC whose responsibilities are the same as the defendant in the preceding paragraph.
8. Defendant JANE DOE (Name Unknown), Lieutenant, at FMC, whose responsibilities include arbitrating inmate disputes, investigating inmate complaints of abuse by CO's and taking corrective action.
9. Defendants JANE/JOHN DOE (Names Unknown) #'s 1 through 8 is corrections officer(s) at FMC whose responsibilities include conducting routine security checks of the cells to which inmates/patients are assigned.

III. FACTUAL ALLEGATIONS

10. At all times mentioned herein the defendants' acted under color of state law.
11. Each defendant, excluding FMC and Warden, is being sued in their individual capacity.
12. FMC and defendant Warden is being sued in their official capacity.
13. From March 27, 2020 to May 6, 2020, plaintiff was housed at Franklin Medical Center as an inmate on a hunger strike.
14. On April 7, 2020, plaintiff was moved from FMC's 3-South wing to the 3-North. Plaintiff's assigned cell location was 3N 328.1.
15. On multiple occasions after plaintiff's April 7th move, he would ask corrections officers' working third shift who periodically visited his cell, including the officers whose conduct gives rise to this civil action, and including on the dates which form the basis for this civil action, to not slam or let slam, the outer door

of the double door cell during their egress from the cell.

16. Plaintiff specifically conveyed to these officers, including on the dates in question, that slamming or letting slam the cell door in this manner is extremely annoying, gives plaintiff periodic headaches and prevents plaintiff from sleeping at night.

17. Notwithstanding plaintiff's cessation of loud noise request the defendant corrections officers' identified herein would not cease their conduct. Conversely plaintiff was repeatedly subjected to deprivation of his sleep inflicted through these frequent loud noise door slams.

18. On April 16, 2020, at approximately 12:00 am, plaintiff laid in bed and had just dozed off asleep. When suddenly plaintiff was jolted awake by an extremely loud bang noise that he immediately recognized^{as} noise emanating from the outer cell door.

19. Upon information and belief, the defendant JOHN DOE (Name Unknown) Corrections Officer (John Doe #1) who was assigned to work the 3 North Post, third shift, made an ingress into the foyer of plaintiff's assigned cell and upon his egress therefrom slammed or let slam very loudly this outer cell door.

20. On April 16, 2020, at approximately 12:15 am, as plaintiff lay in bed attempting to fall asleep again, JOHN DOE #1 again entered the foyer to plaintiff's cell and upon information and belief, upon exiting, slammed or let slam the outer cell door very loudly.

21. On April 16, 2020, at approximately 5:55 am, as the jittery plaintiff lay in bed having finally dozed off to sleep he was suddenly startled awake by an extremely loud bang noise that plaintiff immediately recognized as noise coming from the outer cell door.

22. Upon information and belief, upon exiting the foyer to plaintiff's cell John Doe #1, slammed or let slam the outer cell door very loudly.

23. On April 24, 2020, the JOHN DOE (Name Unknown) Corrections Officer (John Doe #2), assigned to work the 3-North Post, third shift, and JOHN DOE (Name Unknown) Corrections Officer (John Doe #3) assigned to work the

RECEIVED

SEP 29 2021

CLERK OF COURT
SUPREME COURT OF OHIO

3-North Post, third shift, on April 25, 2020, would enter the foyer to plaintiff's cell periodically throughout the night. Everytime that John Doe #2 and John Doe #3 exited the foyer however, plaintiff observed the officer(s) either slam or let slam the outer door to the cell. Plaintiff was unable to sleep the entire night.

24. On April 27, 2020, the plaintiff filed a complaint regarding the April 16, 2020, April 24, 2020, and April 25, 2020 events and addressed the complaint to the third shift Captain. Exhibit - A.

25. Plaintiff believes that JOHN DOE (Name Unknown) Corrections Captain (JOHN DOE # 4) received the complaint. However, John Doe # 4 did not respond to the complaint. Consequently, the conduct persisted.

26. On May 5, 2020, pursuant to ARS120-9-31 I.I., plaintiff sent a Kite to the Inspector for Institutional Services seeking the Inspector's assistance with compelling a response to the complaint.

27. Plaintiff believes the Inspector received the Kite. However, the Inspector did not respond to the Kite and did not compel a response to said complaint.

28. On April 28, 2020, the JOHN DOE (Name Unknown) Corrections Officer (John Doe # 5) assigned to work the 3-North Post, third shift, and on May 4, 2020, the JOHN DOE (Name Unknown) Corrections Officer (JOHN DOE # 6) assigned to work the 3-North Post, third shift, would enter the foyer to plaintiff's assigned cell periodically throughout the night. Everytime that John Doe # 5 and JOHN DOE # 6 egressed from the cells foyer however, plaintiff observed each officer slam or let slam the outer door to the cell very loudly. Consequently, plaintiff was unable to sleep the entire night on both dates.

29. On April 29, 2020, the JOHN DOE (Name Unknown) Corrections Officer (John Doe # 7), on May 2, 2020, the JOHN DOE (Name Unknown) Corrections Officer (John Doe # 8) and on May 3, 2020, the JOHN DOE (Name Unknown) Corrections Officer (John Doe # 9) who was assigned to work the 3-North

Post, third shift, would enter the Foyer to plaintiff's assigned cell periodically throughout each respective night. Each and everytime that John Doe # 7, John Doe # 8 and John Doe # 9 exited the cells foyer however, plaintiff observed each officer slam or let slam very loudly the outerdoor to the cell; and on each occasion each officer would return seconds later, re-open the door and slam the door closed again. Consequently, on April 29, 2020, May 2, 2020 and May 3, 2020 plaintiff was unable to sleep the entire night; it was impossible for plaintiff to sleep.

30. On May 1, 2020, plaintiff verbally complained to JANE DOE (Name Unknown) Corrections Lieutenant (Jane Doe # 1) as alleged above at paragraphs 14-17 and requested assistance with bringing an end to the misconduct, to no avail. The conduct persisted.

31. On May 3, 2020, plaintiff verbally complained to JOHN DOE (Name Unknown) Corrections Captain (John Doe # 10) as alleged above at paragraphs 14-17 and requested his assistance with bringing an end to the misconduct, to no avail. The misconduct persisted.

32. On May 5, 2020, plaintiff filed a complaint regarding the events of April 28, 2020, April 29, 2020, May 2, 2020, May 3, 2020, and May 4, 2020. This complaint was addressed to the third shift Captain. Exhibit - B.

33. Plaintiff believes that JOHN DOE (Name Unknown) Corrections Captain (John Doe # 11) received the complaint. However, John Doe # 11 did not respond to the complaint but the conduct ceased consequent of plaintiff's May 6, 2020 return to TOL I.

34. Consequent of defendant John Doe Corrections Officers' aforementioned conduct, plaintiff was also tired most of the time during the day and got little to no sleep because his sleep was often interrupted by nursing assessments, meal deliveries, nutritional supplement deliveries and periodic staff visits.

35. In addition, plaintiff was frequently so stressed and perturbed from the aforementioned night-time torment that unless plaintiff's sleep state prevented plaintiff from hearing the door open (which rarely happened) just the sound of the opening cell door (out of fear that the officer would slam the door closed), daytime or nighttime, would cause plaintiff to suffer from anxiety, apprehension and heart palpitations, that made it difficult for plaintiff to sleep.

36. Plaintiff was so distressed, mortified and distraught by defendant John Doe Corrections Officer(s) conduct that prevented him from sleeping and made it impossible for plaintiff to sleep that on several occasions during early morning hours plaintiff got up and scrubbed his cell's floor using an excessive amount of water that flowed from the cell's interior out into the common area of the medical unit which required the inmate porter and the officer to spend an inordinate amount of time to clean up the excess water.

37. Upon information and belief, any FMC officer responsible for securing doors to the cells at FMC knows that because of the weight and mechanics of the steel doors operation the door will slam closed very loudly if not physically guided to the closed position in a careful and controlled manner.

38. In fact, as relevant existing camera footage will reveal, plaintiff has observed the officers whose conduct is in question slam or let slam very loudly the door to his cell while carefully and in a controlled manner guide the door to the adjacent cell closed quietly.

39. Plaintiff has also experienced other officers and the officers whose conduct forms the basis of this civil action carefully close plaintiff's cell door on multiple occasions after plaintiff asked the officer(s) to not slam or let slam the cell door upon egress from the cell.

40. Moreover, the John Doe Corrections Officer(s)' conduct constitute inappropriate supervision, egregious harassment and discrimination under ARS 120-9-04

and DRC Policy 64DCM01.

41. Additionally, having acted unprofessionally, unlawfully and having treated plaintiff in an undignified, disrespectful manner the John Doe Corrections Officers' conduct violated DRC 64DCM 01 V., and DRC Policy 31 SEM02 V.

42. It is rudimentary that plaintiff suffers from a disability as an inmate. Plaintiff had no capacity to summon immediate help and to do nothing other than to be subjected to what these John Doe Corrections Officers' did to him; the plaintiff was totally dependant on these defendants' to ensure that they conduct themselves in a manner so as not to target and single plaintiff out and deprive him of sleep. However, having exploited plaintiff's disability as described herein these John Doe Corrections Officers' also violated DRC Policy 64DCM01.

43. Pursuant to POSITION DESCRIPTION FOR A CAPTAIN, defendant John Doe Nos. 4, 10 and 11's responsibilities include evaluating employee incidents for possible discipline.

44. Pursuant to POSITION DESCRIPTION FOR A LIEUTENANT, defendant Jane Doe #1's responsibilities include supervising corrections officers, arbitrating inmate disputes and participating in problem solving.

45. Despite Jane Doe #1, John Doe #4, John Doe #10 and John Doe #11 having knowledge that the John Doe Corrections Officer(s)' loud noise conduct was unrelated to any legitimate institutional safety or security concerns, was inherently cruel, distressing, violated prison rules, and meant only to prevent plaintiff from sleeping, defendants' Jane Doe #1, John Doe #4, John Doe #10 and John Doe #11 made no inquiry and took no action against the John Doe Corrections Officers' through the administrative remedy procedure plaintiff pursued

to address these corrections officers disturbing and egregious behavior to deter, discourage and guard against any future misconduct directed towards plaintiff.

46. Defendants' Jane Doe #1, John Doe #4, John Doe #10 and John Doe #11's refusal to address the John Doe corrections officers' offending conduct to prevent its reoccurrence merely served as a catalyst to these corrections officers courage and emboldened them to act as they did when they repeatedly engaged in their intrepid administration of the loud noise torment designed solely to prevent sleep.

CLAIMS FOR RELIEF

47. Plaintiff realleges paragraphs 1 through 46 by reference as if fully recopied herein.

48. The actions of defendants' John Doe #1, John Doe #2, John Doe #3, John Doe #5, John Doe #6, John Doe #7, John Doe #8 and John Doe #9 in repeatedly subjecting plaintiff to loud bang door slam noises that prevented the plaintiff from sleeping during an extended period of time without any legitimate penological safety or security reason were done intentionally, deliberately, maliciously, sadistically, in callous and reckless disregard of plaintiff's rights secured by the US Constitution and constituted cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution.

49. The failure of defendants' Jane Doe #1, John Doe #4, John Doe #10, and John Doe #11, to take disciplinary or other action to curb the known pattern of sleep deprivation of plaintiff inflicted through frequent loud noises by defendants' John Doe #1, John Doe #2, John Doe #3, John Doe #5, John Doe #6, John Doe #7, John Doe #8 and John Doe #9 constituted deliberate indifference to plaintiff's sleep and contributed to and proximately caused the above-described violation of Eighth Amendment rights.

ATTACHMENTS

RECEIVED

SEP 29 2021

CLERK OF COURT
SUPREME COURT OF OHIO

IN THE COURT OF CLAIMS OF OHIO

Claim Form

Case Number _____
for Court use only

CLAIMANT:

(1) RONALD BLOODWORTH -#366695
claimant's first and last name

(2) 11-23-74
date of birth

(3) TOLEDO CORB. INST.
2001 East Central Avenue
street address

(4) Toledo Ohio 43608
city state zip

(5) NA (419)
telephone area code

(6) NA
Email address

NOTE: If you move or change telephone numbers you must give the Court written notice of the new address or telephone number

STATE AGENCY OR DEPARTMENT:

(7) TOLEDO CORRECTIONAL INSTITUTION
defendant state department, board, commission, etc

(8) 2001 East Central Avenue
street address

(9) Toledo Ohio 43608
city state zip

(10) Location where injury, damage, or loss occurred.

Receiving & Delivery and B 3/4 South

(11) Date and time when injury, damage, or loss occurred.

March 9, 2020, morning hours; and March 12, 2020, morning hours

(12) Describe in ordinary language the basis of the claim.

On March 9, 2020, upon plaintiffs arrival to Toledo Correctional Institution (TOCZ) his personal effects was inventoried by M. Brown, Corrections officer and Receiving and Delivery (R&D) officer. Multiple items ^{of} personal property that

COURT OF CLAIMS OF OHIO

(12) Continued

plaintiff owned was confiscated by CO Brown. Among the items confiscated was 14 Gatorades, 1 Petroleum Jelly, and Sewing Kit. CO Brown explicitly claimed that these items were not permitted in 4B "per policy." However, CO Brown never referenced the existing and applicable "policy" that required or authorized the act. After completing the inventory process CO Brown returned the remainder of plaintiff's permitted personal property to him. However, on March 12, 2020, during a search of plaintiff's property, JOHN DOE (first name unknown) MIANNICK, corrections officer, in B 3/4 South, confiscated multiple items of plaintiff's permitted personal property which included plaintiff's headphone adapter, sweat pants, shorts, and two amplifier instrument cables. CO Miannick never identified or described how these items were not permitted by law or expressly prohibited by the CDCR and/or institutional policy. Subsequently, plaintiff sought to effect the return of his confiscated property through Sergeant Brandell, his unit sergeant, who, while able to locate and return some items, was unable to locate and thus return the above listed items to plaintiff.

list each item separately

The items lost are: 14 Gatorade plastic jug drinks; 1 Petroleum Jelly; 1 Sewing Kit; 1 headphone adapter; 1 pair sweat pants; 1 pair shorts; and, 2 Amplifier Instrument cables

(14) The total for my claim is \$ _____

The witnesses, if any, to the injury, damage or loss are (15) Documentary Evidence
Fill in name and address

COURT OF CLAIMS OF OHIO

(16) I (circle the appropriate word or phrase) have do not have insurance coverage for the injury, damage or loss with the

(17) _____
fill in company name and address and policy number

The policy has a (18) \$ _____ deductible provision.

I (circle the appropriate word or phrase) have/have not/ received insurance payment(s) in the amount of

(19) \$ _____ as a result of the incident described above. (see instructions). I ask the Court to grant a judgment in the amount stated in blank (14).

(20) If you are a Medicare or Medicaid beneficiary, please list your Medicare or Medicaid number below

If the amount exceeds \$10,000.00 the Court may require that a civil rules complaint be filed. Under the penalties of perjury and falsification, I state that I have read or had read to me the above complaint and that it is true. Further, I expressly waive, on behalf of myself and of any person who shall have any interest in this claim, all provisions of law forbidding any physician or other person who has heretofore attended or examined me, or who may hereafter attend or examine me from disclosing any knowledge or information which they thereby acquired.

(21) Ronald Bloor
signature of plaintiff (see instructions)

BE SURE TO INCLUDE FILING FEE AND TO GIVE THE COURT WRITTEN NOTICE OF ADDRESS CHANGES (see instructions)

NOTE: Plaintiff need not have an attorney. If plaintiff files the complaint without an attorney, plaintiff completes Blank (21). If plaintiff files through an attorney, plaintiff signs Blank (21) and the attorney signs Blank (22) and completes Blanks (23) through (25).

Pursuant to Civil Rule 11, I state I have read the above complaint; that to the best of my knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

(22) _____
signature of plaintiff's attorney

(23) _____
street address

(24) _____
city state zip

(26) _____
telephone area code

SEND COMPLETED FORM & PAYMENT TO:

Ohio Court of Claims
Thomas J. Moyer Ohio Judicial Center
65 South Front Street, 3rd Floor
Columbus, Ohio 43215



WALKENHORST'S

445 Ingenuity Ave, Sparks, NV 89441
 Phone Toll Free: 800-660-9255 · Fax 707-261-4020
 www.walkenhorsts.com

371 493 13

SALES ORDER			
OH Sundry			
Facility	Date		Page
OH013	04/19/19		

GZ48B

Ship To
 Lebanon Correctional Inst
 3791 State Route 63
 LEBANON, OH 45036

Cust PO / Reference		Order	Quote	Rep	Ship Via	Address	
778670 Web		2894577	4735461	RE	Ground Shipping	36677	
L	S	Item	Qty	Model	Description	Price	Amount
2		14262004	1	186 Navy	Acrylic Watch Cap Navy	2.50	2.50
18		14786095	1	20047	Black Thang Beez Wax Pomade 3.75 oz	3.90	3.90
6		18266010	1	78130	Close Up Mouthwash 16 oz.	2.50	2.50
3		18665156	1	COL-821347 (55114)	Colgate Extra Clean Toothbrush - Medium	1.00	1.00
20		18665200	1	COL-517381 (195036)	Speed Stick AP Irish Spring Original 2.7	3.30	3.30
14		18665304	1	COL-552094 (14177)	Irish Spring Original 3x3.75 oz. Bars	2.90	2.90
12		18665306	1	COL-552101 (14186)	Irish Spring Clean Soap 3x3.75 oz. Bars	2.90	2.90
13		18665311	2	COL-552096 (14178)	Irish Spring Aloe 3x3.75 oz. Bars	2.90	5.80
7		18665406	1	COL-590744 (26921)	Irish Spring Deep Action Body Wash 18oz.	5.90	5.90
8		22421001	1	8901182 (HRE-5625)	Coast Hair & Body Wash 18oz.	4.00	4.00
11		22421008	1	17000-10324 (00324)	Dial Mountain Fresh Soap 3 x 4.0 oz.	3.90	3.90
10		22421016	3	17000-03900 (03900)	Dial Cranberry & AntiOxid. Soap 3 x 4oz.	3.90	11.70
4		22421081	1	74242	Close Up Toothpaste Red Gel 4 oz.	1.90	1.90
9		22421401	2	17000-12755 (02755)	Dial Wht Tea Bar Soap 3 x 4.0oz.	3.90	7.80
1		22783006	1	DGUN-2872	Gamer X 220 Clear Portable Game System	35.00	35.00
17		3112354	1	47400-04472 63256	Gillette Mach 3 Disp.Razor 3pk	14.90	14.90
19		62271036	2	PJ8	Care All Petroleum Jelly 8 oz.	1.50	3.00
5		70785009	1	37000-95230	Crest Complete Toothpaste Cinnamon 6oz.	5.70	5.70
16		70785611	1	47400-11015	Gillette Sensor 3 Disposable 4/pack	9.90	9.90
15		70785713	1	37000-82757	Ivory Bath Soap 4 oz/4 pack	4.40	4.40
21		32	1		Web Shipping	4.00	4.00

00842

SUBTOTAL	115.00
Sales Tax	11.50
Total	126.50

Specifications are subject to change without notice. All included accessories and original purchase receipt are required for all returns. Returns must be made within 30 days of manufacturer's warranty period. Shipping charges are non-refundable. Other restrictions apply.

4

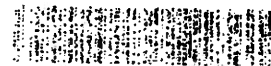


WORKSTP06

4



WORKSTP06



WORKSTP06

[Cite as Woods v. Ohio Dept. of Rehab. & Corr., 2006-Ohio-359.]
IN THE COURT OF CLAIMS OF OHIO

BRUCE WOODS

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

CASE NO. 2005-08689-AD

MEMORANDUM DECISION

: :

FINDINGS OF FACT

{¶ 1} 1) On or about February 20, 2004, employees at defendant's Warren Correctional Institution ("WCI"), confiscated a radio/cassette player and nineteen cassette tapes from the possession of plaintiff, Bruce Woods, an inmate. The confiscated property items were subsequently destroyed by WCI staff on or about March 5, 2004.

{¶ 2} 2) Plaintiff filed this complaint seeking to recover \$175.00, the estimated stated value of the destroyed radio/cassette player and tapes. Plaintiff contended defendant's personnel destroyed the confiscated items without any proper authorization (i.e. court order).

{¶ 3} 3) Defendant explained plaintiff's radio/cassette player was originally confiscated because the electronic device had a recording capability, a violation of institutional rules. The device was rendered incapable of recording by WCI staff and returned to plaintiff's possession. However, the radio/cassette player had the recording capacity restored and the device was again confiscated along with nineteen cassette tapes which had been "dubbed through the (restored) recording capabilities" of the radio/cassette player. The confiscated items were destroyed

without any authorized forfeiture order.

{¶ 4} 4) In his response to defendant's investigation report, plaintiff asserted he should have been given the opportunity to mail his radio/cassette player back to the manufacturer and obtain a refund. Plaintiff acknowledged he restored the recording capability of the radio/cassette player by dropping the device. Plaintiff pointed out WCI personnel placed a pin inside the radio/cassette player to inhibit recording capacity and the pin fell out when the returned radio/cassette player was dropped. Plaintiff related he "was told that my tapes were dubbed without them as evidence this statement can't be determined." Plaintiff did not provide any evidence he purchased nineteen cassette tapes from legitimate authorized vendors or obtained legitimately recorded tapes by any other authorized means.

CONCLUSIONS OF LAW

{¶ 5} 1) Plaintiff has no right to pursue a claim for lost property in which he cannot prove any right of ownership. *DeLong v. Department of Rehabilitation and Correction* (1988), 88-06000-AD. Defendant cannot be held liable for the loss of contraband property that plaintiff has no right to possess. *Beaverson v. Department of Rehabilitation and Correction* (1988), 87-02540-AD; *Radford v. Department of Rehabilitation and Correction* (1984), 84-09071.

{¶ 6} 2) It has been previously held, an inmate plaintiff may recover the value of confiscated property destroyed by agents of defendant when those agents acted without authority or right to carry out the property destruction. *Berg v. Belmont Correctional Institution* (1998), 97-09261-AD. However, plaintiff must prove he was the rightful owner of the destroyed property and the destroyed items were permissible.

{¶ 7} 3) This court has previously held that property in an

RECEIVED

SEP 29 2021

CLERK OF COURT
SUPREME COURT OF OHIO

inmate's possession which cannot be validated by proper indicia of ownership is contraband and consequently, no recovery is permitted when such property is confiscated. *Wheaton v. Department of Rehabilitation and Correction* (1988), 88-04899-AD.

{¶ 8} 4) The credibility of witnesses and the weight attributable to their testimony are primarily matters for the trier of fact. *State v. DeHass* (1967), 10 Ohio St. 2d 230, paragraph one of the syllabus. The court is free to believe or disbelieve, all or any part of each witness's testimony. *State v. Anthill* (1964), 176 Ohio St. 61. The court does not find plaintiff's assertions particularly persuasive regarding the confiscated cassette tapes.

{¶ 9} 5) An inmate plaintiff is barred from pursuing a claim for the loss of use of restricted property when such property is declared impermissible pursuant to departmental policy. *Zerla v. Dept. of Rehab. and Corr.* (2001), 2000-09849-AD.

IN THE COURT OF CLAIMS OF OHIO

BRUCE WOODS	:	
Plaintiff	:	
v.	:	CASE NO. 2005-08689-AD
OHIO DEPARTMENT OF REHABILITATION AND CORRECTION	:	<u>ENTRY OF ADMINISTRATIVE DETERMINATION</u>
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:

Bruce Woods, #329-889
5787 SR 63
Lebanon, Ohio 45036

Plaintiff, Pro se

Gregory C. Trout, Chief Counsel
Department of Rehabilitation
and Correction
1050 Freeway Drive North
Columbus, Ohio 43229

For Defendant

RDK/laa
12/22
Filed 1/18/06
Sent to S.C. reporter 1/27/06

Not Reported in N.E.2d, 2002 WL 31961516 (Ohio Ct.Cl.), 2002-Ohio-4607
CHECK OHIO SUPREME COURT RULES FOR REPORTING OF OPINIONS AND WEIGHT OF
LEGAL AUTHORITY.

Court of Claims of Ohio.

Sharif ABDULLAH, # 317-810, P.O. Box 69, London, Ohio 43140, Plaintiff,

v.

LONDON CORRECTIONAL INSTITUTION, Defendant.

No. 2002-02841-AD.

Decided July 3, 2002.

Inmate brought action against prison seeking to recover value of destroyed books. The Court of Claims, No. 2002-02841-AD, held that prison's negligence proximately caused inmate's property loss. So ordered.

West Headnotes

KeyCite this headnote

360 States

360III Property, Contracts, and Liabilities

360k112 Torts

360k112.2 Nature of Act or Claim

360k112.2(4) k. State Institutions, Injuries in Operation Of.

Loss of inmate's books was proximately caused by prison, thereby rendering prison liable to inmate for negligence; prison acknowledged books were confiscated from inmate's possession, and prison admitted confiscated books were lost.

For Defendant: Gregory C. Trout, Chief Counsel, Department of Rehabilitation and Correction, 1050 Freeway North, Columbus, Ohio 43229.

MEMORANDUM DECISION

FINDINGS OF FACT

*1 {¶ 1} 1) On or about November 3, 2001, an employee of defendant, London Correctional Institution, confiscated four books from the possession of plaintiff, Sharif Abdullah, an inmate. {¶ 2} 2) The books were either destroyed by defendant or lost while under defendant's control. {¶ 3} 3) Plaintiff filed this complaint seeking to recover \$79.20, the estimated value of the destroyed books. Plaintiff submitted the filing fee with the complaint.

{¶ 4} 4) Defendant acknowledged books were confiscated from plaintiff's possession. Defendant admitted the confiscated books were lost. Defendant denied liability for the loss of the books based on the contention plaintiff has not submitted sufficient proof to show he legally possessed the items. The trier of fact disagrees.

CONCLUSIONS OF LAW

{¶ 5} 1) 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.

{¶ 6} 2) 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.

{¶ 7} 3) Plaintiff has proven defendant's negligence proximately caused his property loss. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617- AD.

{¶ 8} 4) 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, 577 N.E.2d 160.

{¶ 9} 5) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App.3d 42, 495 N.E.2d 462. 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, 658 N.E.2d 31.

{¶ 10} 6) A plaintiff is competent to testify with respect to the true value of his property. *Gaiter v. Lima Correctional Facility* (1988), 61 Ohio Misc.2d 293, 578 N.E.2d 895.

{¶ 11} 7) The court finds defendant liable to plaintiff in the amount of \$40.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc.2d 19, 587 N.E.2d 990.

{¶ 12} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶ 13} IT IS ORDERED THAT:

{¶ 14} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶ 15} 2) Defendant (London Correctional Institution) pay plaintiff (Sharif Abdullah) \$65.00 and such interest as is allowed by law;

{¶ 16} 3) Court costs are assessed against defendant.

Ohio Ct.Cl.,2002.

Abdullah v. London Correctional Inst

Not Reported in N.E.2d, 2002 WL 31961516 (Ohio Ct.Cl.), 2002-Ohio-4607

END OF DOCUMENT

(C) 2007 Thomson/West. No Claim to Orig. US Gov. Works.

Not Reported in N.E.2d, 2002 WL 31961518 (Ohio Ct.Cl.), 2002-Ohio-4609
CHECK OHIO SUPREME COURT RULES FOR REPORTING OF OPINIONS AND WEIGHT OF
LEGAL AUTHORITY.

Court of Claims of Ohio.

Norene WALKER, # 38724, 2675 East 30th Street, Cleveland, Ohio 44115,
Plaintiff,

v.

NORTHEAST PRE-RELEASE CENTER, Defendant.

No. 2002-02931-AD.

Decided July 3, 2002.

Inmate brought action against correctional facility alleging that correctional facility lost or discarded bottles of perfume oil that it had confiscated from her. The Court of Claims, Borchert, Deputy Clerk, held that inmate proved negligence on the part of correctional facility in storage of her property. Claim granted.

West Headnotes

KeyCite this headnote

360 States

360III Property, Contracts, and Liabilities

360k112 Torts

360k112.2 Nature of Act or Claim

360k112.2(4) k. State Institutions, Injuries in Operation Of.

Inmate proved, by a preponderance of the evidence, negligence on the part of correctional facility in its storage of bottles of perfume oil that were confiscated from her; correctional facility acknowledged its personnel confiscated bottles from inmate's possession which were subsequently lost or discarded. For Defendant: Gregory C. Trout, Chief Counsel, Department of Rehabilitation and Correction, 1050 Freeway North, Columbus, Ohio 43229.

MEMORANDUM DECISION

FINDINGS OF FACT

- *1 {¶ 1} 1) On September 10, 2001, employees of defendant, Northeast Pre-Release Center, confiscated some bottles from the possession of plaintiff, Norene Walker, an inmate.
- {¶ 2} 2) Plaintiff asserted eleven or twelve bottles containing perfume oil were confiscated from her possession. Plaintiff indicated she had purchased the bottles of perfume oils from Chaplain Brown and the commissary.
- {¶ 3} 3) The confiscated bottles were lost, stolen, or discarded while under the control of defendant's personnel. Consequently, plaintiff filed this complaint seeking recovery for the loss of the bottles of perfume oil. Plaintiff did not make a specific damage amount claim. Evidence was submitted showing plaintiff purchased four bottles of perfume oil in February and March 2001. The bottles of oil were valued at \$23.70. Plaintiff submitted the filing fee with the complaint.
- {¶ 4} 4) Defendant acknowledged its personnel confiscated bottles from plaintiff's possession which were subsequently lost or discarded. However, defendant denied any liability in this matter. Defendant suggested the bottles confiscated from plaintiff could have been empty. Defendant indicated the oil plaintiff purchased in February and March 2001 would have been completely exhausted if used

properly. Defendant contended plaintiff has failed to prove how much oil she owned and how many bottles were confiscated.

{¶ 5} 5) Plaintiff did not respond. The trier of fact finds some bottles containing some perfume oil were confiscated on September 10, 2001 by defendant's personnel. The confiscated property which carried some value, was subsequently lost while under defendant's care.

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 his 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) In respect to the loss of certain property items claimed plaintiff has proven, by a preponderance of the evidence, negligence on the part of defendant. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

*2 {¶ 11} 6) 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, 577 N.E.2d 160.

{¶ 12} 7) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App.3d 42, 495 N.E.2d 462. 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, 658 N.E.2d 31.

{¶ 13} 8) The court finds defendant liable to plaintiff in the amount of \$10.00, 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, 587 N.E.2d 990.

{¶ 14} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶ 15} IT IS ORDERED THAT:

{¶ 16} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶ 17} 2) Defendant (Northeast Pre-Release Center) pay plaintiff (Norene Walker) \$35.00 and such interest as is allowed by law;

{¶ 18} 3) Court costs are assessed against defendant.

Ohio Ct.Cl.,2002.

Walker v. Northeast Pre Release Center

Not Reported in N.E.2d, 2002 WL 31961518 (Ohio Ct.Cl.), 2002-Ohio-4609

END OF DOCUMENT

(C) 2007 Thomson/West. No Claim to Orig. US Gov. Works.

RECEIVED

SEP 29 2021

CLERK OF COURT
SUPREME COURT OF OHIO

Not Reported in N.E.2d, 2003 WL 1538926 (Ohio Ct.Cl.), 2003-Ohio-1462
CHECK OHIO SUPREME COURT RULES FOR REPORTING OF OPINIONS AND WEIGHT OF
LEGAL AUTHORITY.

Court of Claims of Ohio.

William A. MILLER, # 364-929, 1580 State Route # 56, P.O. Box 69, London, Ohio
43140-0069, Plaintiff,

v.

LONDON OHIO CORRECTIONAL INSTITUTION, Defendant.

No. 2002-09692-AD.

Decided March 14, 2003.

Prisoner brought action against correctional institution, claiming institution destroyed his property, including legal documents, without authorization. The Court of Claims, Daniel R. Borchert, Deputy Clerk, held that evidence was insufficient to find that confiscated and destroyed material belonged to prisoner.

Judgment for defendant.

West Headnotes

KeyCite this headnote

360 States

360V Claims Against State

360k184.15 Weight and Sufficiency of Evidence

360k184.15(7) k. Inmates of State Institutions, Claims for Injuries To.

(Formerly 98k3)

Evidence was insufficient to support prisoner's claim that property confiscated from under another inmate's bunk, which allegedly included legal documents, belonged to prisoner, and thus that he sustained any property loss when prison destroyed the confiscated property; prisoner had signed document stating he had received all of his property, and any material seized from under inmate's bunk was abandoned by prisoner.

For Defendant: Gregory C. Trout, Chief Counsel, Department of Rehabilitation and Correction, 1050 Freeway North, Columbus, Ohio 43229.

MEMORANDUM DECISION

*1 {¶ 1} On February 28, 2002, plaintiff, William A. Miller, an inmate incarcerated at defendant, London Correctional Institution (LOCI), was transferred from the institution's general population to a segregation unit. According to plaintiff, his personal property was packed, inventoried, and transported to a storage area by three inmates identified as Helton, Desonie, and Gordon. Plaintiff indicated all his property was contained in three boxes with all his legal material and papers stored in one of the three boxes. Plaintiff asserted defendant's personnel refused to store the box containing his legal materials and documents. Consequently, plaintiff explained inmate Helton took the box of legal material and stored it under his bunk in his housing unit.

{¶ 2} On March 15, 2002, defendant's staff conducted a shakedown search at LOCI and discovered one large box and one plastic bag containing plaintiff's property in the possession of inmate Helton. The property was confiscated and inmate Helton was issued a conduct report. The confiscated property was classified as contraband property scheduled to be destroyed.

{¶ 3} On March 20, 2002, plaintiff was released from segregation and his property which had been stored under defendant's custody was returned. Among the returned property items that were contained in two boxes and one bag was an entire box of legal material plus assorted additional legal work. Plaintiff signed his property inventory list acknowledging all the property listed on the inventory was returned to his possession.

{¶ 4} At sometime after being released from segregation, plaintiff learned the property confiscated from inmate Helton was scheduled for destruction. Plaintiff indicated he contacted defendant's Institutional Inspector, Karrie Sebastian, on March 21, 2002, regarding the contraband property seized from inmate Helton's possession. Plaintiff suggested he told Sebastian he owned the seized property and he wanted the items returned to him. Inspector Sebastian contacted defendant's Vault Supervisor, Lt. Jones, requesting he examine the seized contraband and return any legal documents that could be verified as plaintiff's property. According to Sebastian, defendant's Vault/Mail Supervisor Lt. Miller had all items confiscated from inmate Helton destroyed before the articles could be examined to determine if any belonged to plaintiff. Defendant's employee, Lt. Miller, admitted supervising the destruction of seized contraband property. However, Lt. Miller stated he did recall making a cursory examination of the contraband and did not observe any items appearing to be legal documents. Plaintiff stated while looking through a window on March 25, 2002, he saw Lt. Jones escorting an inmate pushing a cart stacked with boxes. Plaintiff contended he could identify his legal materials among the boxes stacked on the cart. Plaintiff maintained he approached the inmate pushing the cart, asked him where he was taking the cart, and was told he "was going to the compactor." Plaintiff related he was ordered to leave the area before he could talk with Lt. Jones about the return of his legal materials. Plaintiff further related he did later speak with Lt. Jones who told him Lt. Miller had authorized the destruction of confiscated property after determining, "it was a big bunch of trash."

*2 {¶ 5} Plaintiff argued his legal documents were destroyed by defendant without proper authorization. Furthermore, plaintiff asserted defendant refused to accept delivery of his legal material, thereby resulting in inmate Helton storing the material under his bunk and exposing the material to confiscation. Therefore, plaintiff has contended defendant is responsible for the loss of all his legal documents that were destroyed. Plaintiff filed this complaint seeking to recover \$634.24, the replacement cost of documents plaintiff has claimed were destroyed by defendant.

{¶ 6} Defendant denied any liability in this matter. Defendant acknowledged LOCI personnel found a box under the bed of inmate Helton containing paperwork with plaintiff's name on it. Defendant suggested this box was placed under inmate Helton's bed by plaintiff. Defendant denied refusing to accept delivery of any property items belonging to plaintiff incident to his February 28, 2002 transfer to segregation. The box stored under inmate Helton's bunk constituted a violation of defendant's internal regulations and was consequently confiscated as contraband. Defendant asserted that if the box stored under Helton's bunk did contain plaintiff's legal documents, the storage method violated defendant's internal regulations. Defendant has contended plaintiff has failed to offer sufficient evidence to prove any of his legal material was destroyed by LOCI staff. Additionally, defendant has asserted plaintiff has failed to provide adequate proof of damages. Defendant argued plaintiff's claim be denied.

{¶ 7} Plaintiff filed a response insisting his legal material was knowingly destroyed by defendant. Plaintiff alleged defendant's personnel knew the property confiscated from inmate Helton belonged to plaintiff and represented legal material. Plaintiff asserted the confiscated legal material was destroyed without proper authorization and therefore he is entitled to all damages claimed.

{¶ 8} Defendant filed a reply to plaintiff's response. Defendant acknowledges that it negligently destroyed a box belonging to plaintiff. However, plaintiff has failed to prove the box contained legal material as plaintiff contended. Defendant asserts the box contained miscellaneous papers of no value. Defendant agrees it was erroneous in stating inmate Helton agreed to the destruction of property, however, plaintiff's own action of signing he had received all of this property has more weight.

{¶ 9} 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.

{¶ 10} When defendant engaged in a shakedown operation, it must exercise ordinary care in doing so. Henderson v. Southern Ohio Correctional Facility (1979), 76-0356-AD.

*3 {¶ 11} However, 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.

{¶ 12} An inmate plaintiff may recover the value of confiscated property destroyed by agents of defendant when those agents acted without authority or right to carry out the property destruction. Berg v. Belmont Correctional Institution (1998), 97-09261-AD. In the instant claim, defendant did destroy, without any proper authorization, the material confiscated from inmate Helton's possession. Plaintiff has failed to produce sufficient evidence to indicate the confiscated material belonged to him Furthermore, plaintiff has not offered enough evidence to show the seized materials/were his legal documents of the nature and amount professed.

{¶ 13} Plaintiff has no right to assert a claim for property in which he cannot prove he maintained an ownership right. DeLong v. Department of Rehabilitation and Correction (1988), 88-06000-AD; Johnson v. Southern Ohio Correctional Facility (2000), 2000-07846-AD. Any property which belonged to plaintiff and was stored under Helton's bunk became abandoned property, whereby plaintiff relinquished all rights of ownership. Therefore, plaintiff has failed to prove, by a preponderance of the evidence, he sustained any property loss as a result of any negligence on the part of defendant. Fitzgerald v. Department of Rehabilitation and Correction (1998), 97-10146-AD.

{¶ 14} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶ 15} IT IS ORDERED THAT:

{¶ 16} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶ 17} 2) The court shall absorb the court costs of this case in excess of the filing fee.

Ohio Ct.Cl., 2003.

Miller v. London Correctional Inst.

Not Reported in N.E.2d, 2003 WL 1538926 (Ohio Ct.Cl.), 2003-Ohio-1462

END OF DOCUMENT

(C) 2007 Thomson/West. No Claim to Orig. US Gov. Works.

OHIO STATE ATTORNEY GENERAL RICHARD CORDRAY -VS- RONALD BLOODWORTH
 11 CVH 265
 FILED: 01/06/11
 CASE IS CLOSED

#	FILE DATE	SUB#	ACTN	DESCRIPTION	FIELD VALUES
	010611	0001	5410C	REQ FOR SERV - CERT	01 D RONALD BLOODWORTH FICHE: FRAME:
	010611	0002	7998C	HEARING/EVENT SCHED	4F 011712 0900 AM T FICHE: FRAME:
1	010611	0003	6530	NARRATIVE - SYS GEN ATTY APR	ACTION HAS BEEN STRICKEN KRISTIN S. BOGGS FICHE: E0669 FRAME: B77
2	010611	0004	5305	COMPLAINT FILED	FICHE: E0669 FRAME: B77
3	010611	0005	6205	CLRK ORIG CASE SCHED	FICHE: E0669 FRAME: B84
	010611	0006	9850C	JUDGE ASSIGN - ORIG	7B FICHE: FRAME:
4	010611	0007	6634	APPLD - DEP FOR COST	149.00 P OHIO STATE ATTORNEY GENERAL FICHE: FRAME: 00
5	010611	0008	6630	APPLIED - DAILY RPTR	10.00 P OHIO STATE ATTORNEY GENERAL FICHE: FRAME: 00
6	010611	0009	6665	APPLIED-COURT CMPTR	10.00 P OHIO STATE ATTORNEY GENERAL FICHE: FRAME: 00
7	010611	0010	6660	APPLIED-COMP LGL FEE	3.00 P OHIO STATE ATTORNEY GENERAL FICHE: FRAME: 00
8	010611	0011	6675	APPLIED - CLERK	25.00 P OHIO STATE ATTORNEY GENERAL FICHE: FRAME: 00
9	010611	0012	6670	APPLIED - LEGAL AID	26.00 P OHIO STATE ATTORNEY GENERAL FICHE: FRAME: 00
10	010611	0013	6667	APPLIED - SP DOCKET	2.00 P OHIO STATE ATTORNEY GENERAL FICHE: FRAME: 00
11	010611	0014	6699	SECURITY DEP RECVD	225.00 P OHIO STATE ATTORNEY GENERAL FICHE: FRAME: 00
12	011211	0001	6220	SUMMONS ISSUED	FICHE: E0684 FRAME: V52
13	011211	0002	5810	POS ISS - CERT MAIL	001003939336 01 D RONALD BLOODWORT FICHE: E0685 FRAME: D07
				NARRATIVE - SYS GEN	RETURNED - SERVED 011311
14	011311	0001	6310	SERV COMP -CERT MAIL	011311 RONALD BLOODWORTH FICHE: E0710 FRAME: O48
15	020711	0001	6541	ATTY APR - PRO SE	RONALD BLOODWORTH FICHE: FRAME:
				NARRATIVE - SYS GEN	ATTORNEY WITHDRAWN
16	020711	0002	9112	MOTION TO EXT TIME	0001 D RONALD BLOODWORTH FICHE: E0755 FRAME: T75
				NARRATIVE - SYS GEN	ACTION RELEASED
17	020911	0001	5260	MEMO CONTRA FILED	P OHIO STATE ATTORNEY GENERAL FICHE: E0764 FRAME: F28
				TO DEFT'S MOTION FOR AN EXTENSION OF TIME	

EXHIBIT

C

FILE					
#	DATE	SUB#	ACTN	DESCRIPTION	FIELD VALUES
254	012821	0002	9110	MTN FOR LEAVE TO FIL	0066 D RONALD BLOODWORTH FICHE: 0F388 FRAME: G75
255	012821	0003	9110	MTN FOR LEAVE TO FIL	0067 D RONALD BLOODWORTH FICHE: 0F388 FRAME: G84
256	012821	0004	9110	MTN FOR LEAVE TO FIL	0068 D RONALD BLOODWORTH FICHE: 0F388 FRAME: G93
257	012821	0005	9110	MTN FOR LEAVE TO FIL	0069 D RONALD BLOODWORTH FICHE: 0F388 FRAME: G97
258	012821	0006	9110	MTN FOR LEAVE TO FIL	0070 D RONALD BLOODWORTH FICHE: 0F388 FRAME: H02
259	012821	0007	9110	MTN FOR LEAVE TO FIL	0071 D RONALD BLOODWORTH FICHE: 0F388 FRAME: H25
260	012821	0008	9110	MTN FOR LEAVE TO FIL	0072 D RONALD BLOODWORTH FICHE: 0F388 FRAME: H30
261	012821	0009	9110	MTN FOR LEAVE TO FIL	0073 D RONALD BLOODWORTH FICHE: 0F388 FRAME: H46
262	012821	0010	7920	NOCA FOR PRO SE	FICHE: FRAME:
263	021821	0001	9997	LETTER	FICHE: 0F408 FRAME: D03
264	021821	0002	7920	NOCA FOR PRO SE	FICHE: 0F408 FRAME: D03