

[Cite as *Robinson v. Noble Corr. Inst.*, 2002-Ohio-4980.]

IN THE COURT OF CLAIMS OF OHIO

MICHAEL ROBINSON, #A280-619 :
15708 St. Rt. 78 W. :
Caldwell, Ohio 43724 : Case No. 2002-03546-AD

Plaintiff : MEMORANDUM DECISION

v. :

NOBLE CORRECTIONAL INSTITUTION :

Defendant :

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

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

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FINDINGS OF FACT

{¶1} 1) On or about January 23, 2002, plaintiff, Michael Robinson, an inmate, was transferred from the Orient Correctional Institution, to the Noble Correctional Institution.

{¶2} 2) Plaintiff has asserted that when he arrived at the Noble Correctional Institution several of his property items were confiscated and he was ordered to authorize the mailing of the confiscated items from the institution. Plaintiff has further asserted the confiscated articles were lost while under the control of Noble Correctional Institution personnel.

{¶3} 3) Plaintiff indicated a pair of gloves, a knit hat, a dress shirt, three Nike t-shirts, two pairs of Nike socks, one pair of Nike gym shorts, and one pair of black and red Nike Air Jordan

gym shoes were lost. Plaintiff filed this complaint seeking to recover \$245.00, the estimated replacement value of the alleged missing clothing items. Plaintiff submitted a copy of a property inventory dated January 23, 2002. The inventory supports plaintiff's contention he possessed the clothing items which were subsequently claimed as lost.

{¶4} 4) On April 18, 2002, plaintiff submitted the filing fee.

{¶5} 5) Defendant admitted liability for the loss of plaintiff's gym shoes and knit cap. Defendant contended the value of these items was no more than \$85.00. Defendant denied losing any other property items. Defendant suggested the remainder of plaintiff's property was returned to his possession.

{¶6} 6) On July 30, 2002, plaintiff filed a response to defendant's investigation report. Plaintiff insisted all his property claimed as lost was lost while under the control of Noble Correctional Institution staff. Plaintiff submitted two property inventories compiled incident to his transfer. A comparison of the inventories seemingly indicates all items claimed were lost while under the control of Noble Correctional Institution staff. Plaintiff maintained his damages in this claim amount to \$245.00.

CONCLUSIONS OF LAW

{¶7} 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.

{¶8} 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.

{¶9} 3) Plaintiff has proven defendant's negligence proximately caused his property loss. *Baisden v. Southern Ohio*

Correctional Facility (1977), 76-0617-AD.

{¶10} 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.

{¶11} 5) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. 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.

{¶12} 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.

{¶13} 7) The court finds defendant liable to plaintiff in the amount of \$245.00, 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.

{¶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 (Noble Correctional Institution) pay plaintiff (Michael Robinson) \$270.00 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk