

**IN THE COURT OF CLAIMS OF OHIO**

HAKEEM SULTAANA

Plaintiff

v.

OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION

Defendant

Case No. 2024-00027AD

Deputy Clerk Holly True Shaver

MEMORANDUM DECISION

{¶1} Hakeem Sultaana (“plaintiff”), an inmate, filed a complaint against defendant, Ohio Department of Rehabilitation and Correction (“ODRC”). Plaintiff related on December 5, 2023, at defendant’s Ross Correctional Institution (“RCI”), he was taken from his cell and his property was not secured resulting in the loss of his Union Supply order and his legal mail. Plaintiff attached a receipt from Union Supply dated November 21, 2023, in the amount of \$221.99, to his complaint.

{¶2} Plaintiff seeks damages in the amount of \$3,700.00. Plaintiff submitted the \$25.00 filing fee.

{¶3} Defendant submitted an investigation report denying liability in this matter. Defendant stated that plaintiff was removed from his cell on December 5, 2023, because he was complaining of a medical emergency. Defendant asserted that all of plaintiff’s property was properly packed up and plaintiff signed the property inventory at that time. Defendant stated that plaintiff also signed a property inventory on December 7, 2023, when he was moved to restrictive housing. Therefore, defendant requested that plaintiff’s claim be denied or, in the alternative, that plaintiff be compensated for the items that were not on the signed property inventories but were on his Union Supply receipt.

{¶4} To prevail in a claim for negligence, plaintiff must prove, by a preponderance of the evidence, that defendant owed plaintiff a duty, that defendant breached that duty, and that defendant’s breach proximately caused plaintiff’s damages. *Armstrong v. Best Buy Co., Inc.*, 99 Ohio St.3d 79, 2003-Ohio-2573, 788 N.E.2d 1088,

¶ 8 citing *Menifee v. Ohio Welding Prods., Inc.*, 15 Ohio St.3d 75, 77, 472 N.E.2d 707 (1984).

{¶5} Whether a duty exists is a question of law to be decided by the court, while breach of such duty is a question of fact. *Snay v. Burr*, 167 Ohio St.3d, 2021-Ohio-4113, 189 N.E.3d 758 ¶ 14, citing *Mussivand v. David*, 45 Ohio St.3d 314, 318, 544 N.E.2d 265 (1989).

{¶6} “[Defendant] does not have the liability of an insurer (i.e., is not liable without fault) with respect to inmate property, but it does have the duty to make reasonable attempts to protect such property. When prison authorities obtain possession of an inmate’s property, a bailment relationship arises between the correctional facility and the inmate. By virtue of this relationship, [defendant] must exercise ordinary care in handling and storing an inmate’s property. However, a correctional institution cannot be held liable for the loss of contraband property that an inmate has no right to possess.” (Internal citations omitted.) *Triplett v. S. Ohio Corr. Facility*, 10th Dist. Franklin No. 06AP-1296, 2007-Ohio-2526, ¶ 7.

{¶7} This court has consistently held that “[i]f property is lost or stolen while in defendant’s possession, it is presumed, without evidence to the contrary, defendant failed to exercise ordinary care.” Internal citations omitted. *Velez v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2019-00053-AD, 2020-Ohio-2932, ¶ 6. However, “[p]laintiff’s failure to prove delivery of [the property] to defendant constitutes a failure to show imposition of a legal bailment duty on the part of defendant in respect to lost property.” Internal citations omitted. *Jones v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2005-09341-AD, 2006-Ohio-365, ¶ 10. Plaintiff cannot recover for property loss when he fails to produce sufficient evidence to establish that defendant actually assumed control over the property. *Whiteside v. Orient Corr. Inst.*, Ct. of Cl. No. 2002-05751, 2005-Ohio-4455; *obj. overruled*, 2005-Ohio-5068. Here, plaintiff has failed to prove that defendant took control of his property or that he was in rightful possession of such property at the time of loss.

{¶8} Plaintiff has the burden of proving, by a preponderance of the evidence, that plaintiff suffered a loss and that this loss was proximately caused by defendant’s

negligence. *Coffman v. Mansfield Corr. Inst.*, 10th Dist. Franklin Co. No. 09AP-447, 2009-Ohio-5859, ¶ 9.

{¶9} To recover against a defendant in a tort action, plaintiff must produce evidence which furnishes a reasonable basis for sustaining plaintiff's claim. If plaintiff's evidence furnishes a basis for only a guess, among different possibilities, as to any essential issue in the case, plaintiff fails to sustain the burden as to such issue. *Landon v. Lee Motors, Inc.*, 161 Ohio St. 82, 118 N.E.2d 147 (1954).

{¶10} The credibility of witnesses and the weight attributable to their testimony are primarily matters for the trier of fact. *State v. DeHass*, 10 Ohio St.2d 230, 227 N.E.2d 212 (1967), paragraph one of the syllabus. The court is free to believe, or disbelieve, all or any part of each witness's testimony. *State v. Antill*, 176 Ohio St. 61, 197 N.E.2d 548 (1964). The court finds plaintiff's statement not particularly persuasive.

{¶11} Therefore, judgment is rendered in favor of defendant.

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ENTRY OF ADMINISTRATIVE  
DETERMINATION

{¶12} 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.

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HOLLY TRUE SHAVER  
Deputy Clerk

Filed 4/25/24  
Sent to S.C. Reporter 8/27/24