

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE  
MIDDLE DIVISION

FILED  
THE CLAIMS COMMISSION  
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2014 DEC -1 A 10: 09

JASON BLANKENSHIP #503620, )  
 ) Claim No. T20140273  
 Claimant, )  
 )  
 vs. )  
 )  
 STATE OF TENNESSEE, )  
 ) Regular Docket  
 Defendant. )

**FINAL JUDGMENT FOR CLAIMANT**

This matter came before Robert N. Hibbett, Commissioner and judge of the facts and law. This prisoner property claim is being adjudicated on the record without a trial pursuant to T.C.A. 9-8-403(h). Although this a Regular Docket Claim, subject to appeal, trials are not conducted on inmate property claims.

(h) Claims based on the negligent care, custody or control of personal property by persons in the legal custody of the state shall proceed on affidavits only, except where the commission determines that witnesses should be heard.  
Tenn. Code Ann. § 9-8-403(h).

The Claimant, Jason Blankenship, is an inmate in the custody of the Tennessee Department of Correction. The Claimant alleges that his television set was lost when he was transferred from Bledsoe County Correctional Complex (BCCX) to Turney Center Industrial Complex (TCIX). The State has admitted in

its Answer that a television was not among the Claimant's personal belongings when he arrived at TCIX and the television did not arrive at TCIX on subsequent busses from BCCX.

### **FINDINGS OF FACT**

#### **Affidavit of Jason Blankenship**

Mr. Blankenship states on June 27, 2013, he was transported from BCCX to TCIX. When he arrived, he found that his television did not arrive with the rest of his property. The television had been packed by BCCX officers separately to prevent damage. He alleges that the RCA television was priced at \$225.95 by Union Supply.

#### **Affidavit of Jeremy Moxley**

Jeremy Moxley was an inmate incarcerated at BCCX with Mr. Blankenship. He was transferred to TCIX the same day after making stops at other correctional facilities. When they arrived at TCIX, the officers could not locate Mr. Blankenship's television.

#### **Affidavit of Sergeant Dustin K. Mackin**

The State submitted the affidavit of Sergeant Dustin Mackin, corrections officer and institutional investigator for TCIX. The affidavit contained the

hearsay statements of two correctional officers. The Tribunal shall not consider the hearsay statements contained in the affidavit.

### **Exhibits**

Through Exhibit C, the Claimant has introduced the statement of the Warden of TCIX, Debra Johnson. Warden Johnson states, "Grievance was delayed awaiting several chain-bus arrivals. Inmate television not received at TCIX from BCCX. Mailroom, (sic) should contact BCCX."

In Exhibit H, the Claimant has introduced the Union Supply invoice dated May 16, 2013 showing he received a RCA 13" LED television priced at \$225.95.

Exhibit I is the TDOC Offender Property List of the Claimant. While he was at BCCX the list shows he possessed a 13" television in new condition.

### **CONCLUSIONS OF LAW**

#### **Liability**

The preponderance of the admissible evidence clearly points to the negligence of State employees in failing to deliver the Claimant's television to TCIX. The correctional officers took possession of the television, packed it and then lost track of it. There is no proof of comparative negligence on the part of the Claimant.

## Damages

The starting point for discussion of whether a claimant has established, by a preponderance of the evidence, the amount of his loss is the Western Section Court of Appeals' decision in *E. L. Reid v. State* 9 S.W.3d (Tenn. Ct. App. 1999) (perm. app. denied, Nov. 22, 1999). There, Judge Farmer, speaking for a unanimous court, said the following:

As a general rule, damages for the loss or destruction of personal property are measured by the market value of the property at the time of its loss. ... Alternatively, if no market for the property exists, or if the market value is inadequate, the proper measure of damages for the loss of personal property is the actual value of the property to the owner. ... In either event, damages are calculated with reference to the date of the loss of the property, not the date of its acquisition or purchase by the owner. ....<sup>1</sup>

Therefore, the value of the television set must be calculated based on the day it was lost, not when it was acquired. The Claimant has established the price of the television set when it was new on May 16, 2013: \$225.95. The television was lost on June 27, 2013. The television suffered little depreciation in this short period. Therefore, the Tribunal shall award \$220.00 to the Claimant for the loss of his television.

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<sup>1</sup> Although the Court did not find it necessary to decide this issue, it did discuss whether or not claimant Reid's affidavit filed in support of his damage claim was adequate. *Id* at 794-795.

**IT IS, THEREFORE, ORDERED:**

1. That the State is found liable for the loss of the Claimant's television set.
2. That the Claimant is awarded \$220.00 in damages for his loss.
3. That the Court costs, if any, are taxed to the State of Tennessee.
4. That this is a final judgment.

ENTERED this 25 day of November, 2014.

A handwritten signature in black ink, appearing to read 'R. N. Hibbett', is written over a horizontal line. The signature is stylized and cursive.

ROBERT N. HIBBETT  
Claims Commissioner  
Sitting as the Trial Court of Record

**CERTIFICATE OF SERVICE**

This is to certify that a true and exact copy of the foregoing document has been served upon the following parties of record:

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This 1<sup>st</sup> day of Dec., 2014.

*Paula Swanson*

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PAULA SWANSON  
Administrative Clerk  
Tennessee Claims Commission