

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE
MIDDLE DIVISION

FILED
CLAIMS COMMISSION
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DERRICK MCCLURE #270409,)
) Claim No. T20150596
 Claimant,)
)
 vs.)
)
 STATE OF TENNESSEE,)
) Regular Docket
 Defendant.)

JUDGMENT DISMISSING CLAIM

This is a claim for negligent care, custody or control of personal property proceeding on affidavits pursuant to Tenn. Code Ann. § 9-8-403(h). The claimant, Derrick McClure, is an inmate in the custody of the Tennessee Department of Correction. The Claimant alleges that his property was not returned to him by correction officials when he was released from segregation. He has requested to be awarded \$50.00 for his lost property.

In the affidavit accompanying his Notice of Appeal, the Claimant stated the following:

“I do not know what happen to my property, what C/O Farley had done with my property or who he had allowed to get my property. All I know that when I had received my property, all of my property was completely trashed, and I was missing the following items. . . . C/O Farley is the person ‘who’ had searched my personal property and C/O Farley is the person who is responsible for my property. . . .

I am filing this claim on C/O Farley due to his 'Negligent Care' of my personal property."

Later, he sought to amend his claim by alleging Kory Godwin was negligent in handling his property. He provided packing lists and shipping forms from Access Catalog Company and TCMA Order Form with his claim form to give valuation to his missing items.

He itemized his missing property as follows:

- | | |
|-------------------------------------|---------------------------------------|
| 1. A gray deluxe acrylic watch cap | No value given |
| 2. A white deluxe acrylic watch cap | No value given |
| 3. A white thermal top and bottom | \$7.90 |
| 4. One pair of boxer briefs | \$6.49 divided by three equals \$2.16 |
| 5. One beefy t-shirt with pocket | \$3.69 |
| 6. Three laundry bags | No value given |
| 7. Two Colgate toothpastes | \$4.52 |
| 8. Two Degree deodorants | \$2.94 |
| 9. Three Lever soaps | \$2.67 |
| 10. Phone numbers | No value given |
| 11. Three pictures | No value given |

The State has filed both "Active" and "Inactive" TOMIS Offender Property Reports showing the Claimant's personal property and its disposition. The only

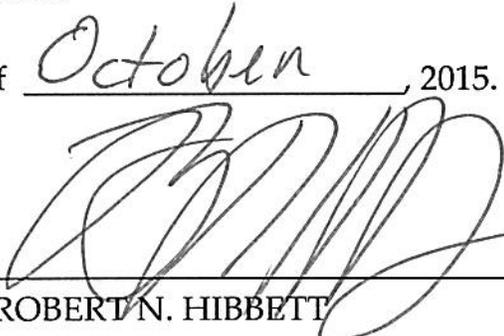
property that appears on these property lists that is listed on the claim is a t-shirt that is shown to be lost as of February 20, 2013. No other property alleged to be missing is found on these official property lists. The order forms and packing lists filed by the Claimant are probative, but they do not conclusively prove that the Claimant possessed these items. The Commissary Order Form is less probative than the other forms to show the Claimant possessed these items. Furthermore, the burden is on the Claimant to show valuation of the missing items. The Claimant fails in this respect also.

The Tribunal, in weighing the State's evidence against the Claimant's evidence, finds that the State's evidence is more probative and credible. Therefore, the Claimant has failed to prove his claim for \$50.00 by preponderance of the evidence. His claim is respectfully dismissed.

IT IS, THEREFORE, ORDERED:

1. The claim is respectfully dismissed with prejudice.
2. This is a final judgment.

ENTERED this 19 day of October, 2015.



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 20th day of October, 2015.

Paula Merrifield

PAULA MERRIFIELD
Administrative Clerk
Tennessee Claims Commission