IN THE CLAIMS COMMISSION FOR THE STATE OF TENNESSEE
WESTERN DIVISION

FILED
FEB 18 2009
Tennessee Claims Commission
CLERK'S OFFICE

JOE MARTIN,

Claimant,

v. **Claim Number 20-080-954**
Regular Docket

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STATE OF TENNESSEE,

Defendant

JUDGMENT

This claim comes before the Commission on a property loss claim filed by the Claimant against the Defendant/State of Tennessee.

Claimant was incarcerated at Northwest Correctional Complex, on November 30, 2007, when he was placed in segregation and certain items of his personal property confiscated. He was given thirty days to arrange for family members to pick up the property. Claimant avers that when his mother, Cheryl Womack, came to pick up the property, four items, two Gucci belts, one braided snake skin

belt and a JVC stereo, were missing. (*See* November 29, 2008 affidavit of Cheryl Womack, para. 7)

In support of his claim, Martin proffers his mother's affidavit, in which she states that she purchased the JVC stereo and three belts for her son and had them sent to him at the prison. (November 29, 2008 affidavit of Cheryl Womack, paras. 2, 3) Martin also proffers an offender property list which indicates he owned a JVC radio. The list does not include any belts.

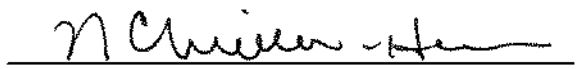
Defendant admits that state employees confiscated three belts from Claimant, but is unable to admit or deny that Claimant owned the three belts. (*Answer,* para. 2) Defendant admits that Claimant's mother picked up only a typewriter, hot pot and ice chest. (*Answer,* para. 4) Defendant denies that it confiscated a stereo. (*Answer,* para. 3) No affidavits were submitted by the State in support of its position.

The Commission **FINDS** that Claimant proved by a preponderance of the evidence that state employees were negligent in their care, custody and control of his property.

Of course, Claimant is not entitled to the replacement value of the lost items. "Damages for the loss or destruction of personal

property are measured by the market value of the property at the time of its loss." *Reid v. State,* 9 S.W.3d 788, 795 (Tenn. Ct. App. 1999).

IT IS THEREFORE **ORDERED** that Claimant is awarded the sum of forty dollars ($40.00) for the loss of his personal property.



NANCY C. MILLER-HERRON
COMMISSIONER

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Order has been mailed to:

Mr. Joe Martin, #266675
RMSI
7475 Cockrill Bend Boulevard
Nashville, Tennessee 37209

Ms. Kellena Baker, Esq.
Assistant Attorney General
Civil Rights and Claims Division
P.O. Box 20207
Nashville, Tennessee 37202-0207

on this the 18 day of February, 2009.

Marsha Richeson, Clerk