

# Court of Claims of Ohio

The Ohio Judicial Center  
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DANIEL BOOTH

Case No. 2004-01419

Plaintiff

Judge Clark B. Weaver Sr.  
Magistrate Steven A. Larson

v.

MAGISTRATE DECISION

OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION

Defendant

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{¶1} This case was initially tried to a magistrate of the court on the issue of liability. The court subsequently issued a decision in favor of plaintiff and scheduled the case for a trial on the issue of damages.

{¶2} Plaintiff was an inmate working in the kitchen at the Southeastern Correctional Institution when he was injured by a corrections officer (CO) who struck him in the face with two large metal ladles. In its liability decision, the court determined that plaintiff had instigated physical contact with the CO but that the CO acted in a negligent manner inasmuch as his actions exceeded the amount of force that was reasonably necessary in order to enforce defendant's rules and regulations. After he was evaluated by defendant's medical staff, plaintiff was transported to a local hospital for further evaluation and treatment. The hospital emergency department report shows that abrasions were noted on the left side of plaintiff's jaw and neck. According to the report, the attending physician ordered an x-ray of plaintiff's neck due to complaints of "tenderness" and the results were negative. Plaintiff was advised to take Tylenol for pain and discharged from the hospital.

{¶3} Plaintiff testified that he experienced pain in his jaw, neck, and left ear and that despite his complaints, he was taken to a segregation cell where he was held for several days. After his release from the segregation unit, plaintiff was periodically examined by defendant's medical staff and provided with non-prescription pain medication.

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Plaintiff testified that he continued to experience occasional pain for several months after the incident and that he had fully recovered from his injuries before he was released from defendant's custody.

{¶4} Based upon the totality of the testimony and evidence, the court finds that plaintiff's total damages in this case amount to \$4,500. Accordingly, judgment is recommended in favor of plaintiff in the amount of \$4,525 which includes the \$25 filing fee.

*A party may file written objections to the magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).*

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STEVEN A. LARSON  
Magistrate

cc:

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AMR/cmd	

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