

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

ABDUL ABDULRAHAMAN

Plaintiff

v.

DEPARTMENT OF REHABILITATION AND CORRECTION, et al.

Defendants

Case No. 2007-01126

Judge Joseph T. Clark
Magistrate Steven A. Larson

MAGISTRATE DECISION

{¶ 1} Plaintiff brought this action alleging that he was assaulted by defendants' employees. The issues of liability and damages were bifurcated and the case proceeded to trial before a magistrate on the issue of liability.

{¶ 2} At all times relevant, plaintiff was an inmate in the custody and control of defendants at the Southern Ohio Correctional Facility (SOCF) pursuant to R.C. 5120.16. Plaintiff alleges that on December 21, 2006, SOCF employees assaulted him

{¶ 3} The Ohio Administrative Code sets forth the circumstances under which force may be lawfully utilized by prison officials and employees in controlling inmates. Ohio Adm.Code 5120-9-01(C) provides, in relevant part:

{¶ 4} “(2) Less-than-deadly force. There are six general circumstances in which a staff member may use force against an inmate or third person. A staff member may use less-than-deadly force against an inmate in the following circumstances:

{¶ 5} “(a) Self-defense from physical attack or threat of physical harm;

{¶ 6} “(b) Defense of another from physical attack or threat of physical attack;

{¶ 7} “(c) When necessary to control or subdue an inmate who refuses to obey prison rules, regulations or orders;

{¶ 8} “(d) When necessary to stop an inmate from destroying property or engaging in a riot or other disturbance;

{¶ 9} “(e) Prevention of an escape or apprehension of an escapee; or

{¶ 10} “(f) Controlling or subduing an inmate in order to stop or prevent self-inflicted harm.”

{¶ 11} The court has recognized that “corrections officers have a privilege to use force upon inmates under certain conditions. * * * Obviously ‘the use of force is a reality of prison life’ and the precise degree of force required to respond to a given situation requires an exercise of discretion by the corrections officer.” *Mason v. Ohio Dept. of Rehab. & Corr.* (1990), 62 Ohio Misc.2d 96, 101-102. (Internal citations omitted.)

{¶ 12} Plaintiff testified that the incident occurred when he was in his cell and SOCF staff attempted to remove his handcuffs. According to plaintiff, staff members sprayed him with mace and forcibly removed his handcuffs, causing him to suffer a laceration to his arm. However, plaintiff’s testimony regarding the incident was inconsistent.

{¶ 13} Corrections Sergeant Michael Humphrey responded to another employee’s call for help regarding plaintiff on the morning of December 21, 2006. Humphrey testified that when he arrived on the scene, he observed plaintiff wandering around the range and refusing orders to either go to his cell or to the shower cell. Humphrey stated that he and Sergeant Bear entered the range and escorted plaintiff

back to his cell without incident. Humphrey testified that plaintiff has a history of refusing to allow his handcuffs to be removed and attempting to retreat into his cell while handcuffed. According to Humphrey, this prompted him to use his PR-24 tactical baton to aid in the removal of the handcuffs. Humphrey stated that plaintiff placed his hands through the "cuff port" in the cell door, a second set of handcuffs was attached to the set plaintiff had on and then to the baton, and the handcuffs were removed without incident. Humphrey stated that he prepared an incident report and participated in a use-of-force investigation following the encounter. (Defendant's Exhibit A.)

{¶ 14} Humphrey further testified that he had a second incident with plaintiff later that same day. According to Humphrey, plaintiff was again released from his cell to take a shower, but after his shower he refused to return to his cell. Humphrey stated that he again entered the range and escorted plaintiff to his cell without incident, but that before he could remove the handcuffs, plaintiff ran to the back of the cell, retrieved an object, said "I got something for you" and then turned to throw something. Humphrey testified that he administered a burst of mace at which point plaintiff complied with his orders and he was able to remove the handcuffs. Humphrey stated that he prepared an incident report and participated in a use-of-force investigation following this incident as well. (Defendant's Exhibit B.)

{¶ 15} Based upon the foregoing, the court concludes that Humphrey and other staff involved in the incidents of December 21, 2006, used appropriate force at all times. Accordingly, judgment is recommended in favor of defendants.

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).

STEVEN A. LARSON
Magistrate

cc:

Stephanie D. Pestello-Sharf
Assistant Attorney General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215-3130

Abdul Abdulrahaman, #487-773
P.O. Box 45699
Lucasville, Ohio 45699

Magistrate Steven A. Larson

MR/cmd
Filed September 28, 2009
To S.C. reporter October 13, 2009