

# Court of Claims of Ohio

The Ohio Judicial Center  
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MARQUES D. STRAUGHTER

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2013-00200

Magistrate Anderson M. Renick

## DECISION OF THE MAGISTRATE

{¶1} Plaintiff brought this action alleging that defendant's employees used excessive force against him. The issues of liability and damages were bifurcated and the case proceeded to trial on the issue of liability.

{¶2} At all times relevant, plaintiff was an inmate in the custody and control of defendant at the Southern Ohio Correctional Facility (SOCF) pursuant to R.C. 5120.16. Plaintiff testified that on November 14, 2012, he was involved in an altercation with another inmate and that defendant's corrections officers (COs) responded, sprayed him with Mace, and placed him in handcuffs.

{¶3} In his complaint, plaintiff states that the actions of the COs in restraining and escorting him constituted "assault." "Allegations of use of unnecessary or excessive force against an inmate may state claims for battery and/or negligence. To prove a claim for battery, a plaintiff must demonstrate that the defendant 'act[ed] intending to cause a harmful or offensive contact, and \* \* \* a harmful contact result[ed].'" *Brown v. Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 13AP-804, 2014-Ohio-1810, ¶ 13, quoting *Love v. Port Clinton*, 37 Ohio St.3d 98, 99, 524 N.E.2d 166 (1988). In a civil action for battery, defendant has the burden of proving a defense of justification, such

as the exercise of lawful authority. *Id.* Furthermore, the state owes a duty of reasonable care to provide for its prisoners' health, care, and well-being." *Id.* at ¶ 14.

{¶4} Ohio Adm.Code 5120-9-01 provides, in pertinent part:

{¶5} "(C) Guidelines regarding the use of force. \* \* \*

{¶6} "\* \* \*

{¶7} "(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:

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

{¶9} "(b) Defense of another from physical attack or threat of physical attack;

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

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

{¶12} "(e) Prevention of an escape or apprehension of an escapee; or

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

{¶14} Ohio Adm.Code 5120-9-01(B)(3), defines "excessive force" as "an application of force which, either by the type of force employed, or the extent to which such force is employed, exceeds that force which reasonably appears to be necessary under all the circumstances surrounding the incident."

{¶15} Plaintiff testified that on November 14, 2012, he was involved in a physical altercation with inmate Reed when a CO approached and ordered him to stop fighting. Plaintiff recalled that the CO sprayed Mace at him, which affected his vision. Plaintiff testified that he was on the floor when one or more COs picked him up. According to plaintiff, he did not resist having his arms handcuffed behind his back, however, the

responding CO, Matt Cuckler, began twisting his left arm and did not stop when he complained of pain in his arm that was related to a prior injury. After plaintiff was removed from the gym, another CO took over as his escort. Plaintiff stated that the CO placed a baton between his handcuffed arms. Plaintiff testified that he continued to complain of pain as the CO exclaimed “give this to Obama” while twisting the baton and pulling up on plaintiff’s arms. Plaintiff related that when he screamed in pain, the CO twisted the baton with even greater force.

{¶16} Plaintiff testified that he reported the excessive use of force to Lieutenant Stone and that Nurse Jenkins overheard that conversation. Plaintiff stated that he also informed the nurse that his arm was injured, but she left the area and did not return. Plaintiff identified a use of force statement that was written on his behalf because he was unable to see as a result of the Mace in his eyes. (Plaintiff’s Exhibit 1.) In his statement, plaintiff relates that his left arm was injured by a gunshot before he was incarcerated and that the COs grabbed and twisted that arm when they moved him. Plaintiff testified that his statement was read back to him soon after it was written and that he thought the statement was “good enough” at the time.

{¶17} According to plaintiff, he was examined by Nurse Jenkins, but was not treated for his injuries on the day of the incident. Plaintiff testified that he was examined at the infirmary on November 15, 2012, at which time his left arm was x-rayed and placed in a splint. (Plaintiff’s Exhibit 4.) Although plaintiff testified that his arm was broken, the medical records show that Dr. Ahmed reviewed an x-ray of plaintiff’s left arm and then ordered the splint and “ace wrap” be removed. The nurse who removed the splint noted that plaintiff’s left arm showed no redness, discoloration, or other signs of a new injury.

{¶18} Sometime after the incident, plaintiff recognized CO Matthew Chaffin as the CO who had twisted his arms with a baton. During cross-examination, plaintiff

recalled that other COs had responded to the fight and observed his arms being twisted, but did not intervene. Plaintiff stated that he was subsequently found guilty of a rules violation for fighting and that he attended a Rules Infraction Board (RIB) hearing, but he did not inform the RIB members that COs had twisted his arms. On November 25, 2012, plaintiff completed an informal complaint that was submitted to his shift captain which included a detailed version of the incident. (Plaintiff's Exhibit 2.) On January 28, 2013, plaintiff filed a grievance against the institutional inspector for not taking action on his complaint. (Plaintiff's Exhibit 3.)

{¶19} Inmate Mike Santos testified that he was present in the gym on the day of the incident and that he saw plaintiff fighting with inmate Reed. Santos stated that COs used Mace to break up the fight and then escorted plaintiff out of the gym. According to Santos, he was approximately 20 feet from the gym door when he saw a CO place a baton between plaintiff's arms and lift up on his arms. Santos testified that he was inside the gym and that the gym door was closed when he made his observation, but he explained that he could see through a window in the door.

{¶20} Inmate Raymond Lininger testified that he was in the gym playing basketball when he heard fighting. He saw responding COs spray Mace and place plaintiff in handcuffs. Lininger testified that the COs "jerked" up on plaintiff's handcuffs and escorted plaintiff out of the gym. According to Lininger, after plaintiff was moved to the hallway outside of the gym, another CO put a baton between plaintiff's arms and pulled up in a twisting motion. Lininger estimated that he was approximately 50 feet away when plaintiff was in the hallway and that he was able to see plaintiff being escorted because the gym door was being held open.

{¶21} Inmate Nicholas Hollis testified by way of deposition that he and approximately 40 to 50 other inmates were in the gym for recreation when he saw an unknown CO spray plaintiff with Mace, place him in handcuffs, and escort him to the

hallway outside of the gym. Hollis testified that the COs in the hallway ordered plaintiff to stop resisting, threw him up against a wall and placed a nightstick in between the handcuffs and plaintiff's arms while twisting and bending upward. Hollis testified that there were not any obstructions to prevent him from observing the CO's conduct. However, during cross examination, Hollis testified that he was not able to hear anything after plaintiff was removed from the gym because the COs had closed the door. Hollis stated that he has not seen plaintiff since the incident, but he did receive a letter from plaintiff about his intention to file a lawsuit as a result of the incident.

{¶22} Plaintiff identified a letter he sent to Hollis, wherein plaintiff states the he did not give the COs a reason to twist his arm. (Defendant's Exhibit A.) In the letter, plaintiff also describes having a nightstick placed between the handcuffs and COs twisting the nightstick to "bend my arm up." Plaintiff also relates that he did not know if Hollis saw the COs actions.

{¶23} CO Matt Cuckler testified that he was assigned to the M2 gym on the day of the incident and that it is common for fights to occur in the gym. After viewing a portion of the video that was obtained from the gym's security camera, Cuckler testified that he vaguely recalled the incident. Cuckler stated that he and CO Rodney Walker responded to the fight and that he sprayed Mace at the inmates who ignored his order to stop fighting. Cuckler recalled placing plaintiff in handcuffs and escorting him out of the gym. Cuckler described the escort procedure he used to remove plaintiff from the gym, which included applying pressure to the inmate's wrists and elbows. According to Cuckler, it is often necessary to direct or guide an inmate who has been exposed to Mace inasmuch as the chemical impairs vision. Cuckler testified that the escort technique he used on plaintiff was appropriate for escorting an inmate who had been placed in handcuffs after fighting.

{¶24} Cuckler explained that spraying Mace constitutes a use of force on an inmate, which must be reported and reviewed by a special committee and ultimately approved by the deputy warden. Cuckler testified that he completed an incident report to document his use of Mace and that he would have documented any other use of force if such force had been necessary. Cuckler states in his incident report that the inmates stopped fighting and got on the floor after Mace was administered. (Defendant's Exhibit F.) Cuckler testified that he did not recall plaintiff complaining of injury while being escorted from the gym.

{¶25} CO Rodney Walker testified that his duties included supervising inmate recreation; however, he did not recall the incident at issue inasmuch as he has responded to more than 100 inmate fights in the last three years. Walker identified his signature on an incident report which notes only the use of Mace as force used in response to the fight. Walker testified that he would have documented any use of force that he observed. (Defendant's Exhibit F.)

{¶26} CO Matthew Chaffin testified that his duties included responding to all medical emergencies and inmate fights. According to Chaffin, he rarely has to use force when responding to inmate fights because those fights have usually ended by the time he arrives and he is often responsible for escorting those inmates to segregation. Chaffin estimated that he responds to approximately one fight each day and he stated that he did not recognize plaintiff nor did he have any independent recollection of the incident. Chaffin testified that all COs at SOCF are equipped with PR-24 batons.

{¶27} Upon review of the evidence, the court finds that the security video was consistent with the testimony of CO Cuckler regarding the manner in which he restrained plaintiff and escorted him out of the gym. Specifically, the court finds that Cuckler's description of the escort technique that he used for inmates who have been exposed to Mace was consistent with the video evidence. Upon careful consideration

of the witnesses' credibility, the court finds that the testimony of COs Cuckler and Chaffin was more convincing than plaintiff's. The use of force statement that was read to plaintiff soon after the incident does not refer to the use of a nightstick or baton and plaintiff admitted that he did not mention any excessive use of force at his RIB hearing. Furthermore, plaintiff did not suggest any reason for defendant's COs to use excessive force against him, other than a racist statement that was allegedly made by Chaffin and heard only by plaintiff. Both plaintiff and CO Cuckler testified that plaintiff did not resist being restrained or escorted after he was sprayed with Mace.

{¶28} Regarding the testimony of Hollis, Santos, and Lininger, each inmate witness testified that he received a letter from plaintiff prior to agreeing to testify. The letter that Hollis received contained a detailed account of plaintiff's version of the incident, including the use of nightstick by one of the COs. In his letter, plaintiff admitted that he did not know whether the prospective witness had observed the incident. Although Hollis testified that he heard COs in the hallway order plaintiff to stop resisting, he also testified that he was not able to hear what happened outside the gym because the door was closed and it was loud in the gym. Lininger's testimony that he could see outside of the gym because the door was being held open contradicted the testimony of other inmates who stated that the door was closed after plaintiff exited the gym.

{¶29} Based upon the totality of the evidence, the court finds that COs Cuckler and Chaffin did not twist or unnecessarily pull on plaintiff's arm and that they escorted plaintiff with such force as was reasonably necessary under the circumstances in order to control and guide plaintiff from the scene of the incident. Furthermore, the court finds that plaintiff failed to prove that he suffered any injury to his arm as a result of the incident. As discussed above, although plaintiff contends that his left arm was broken by the CO's conduct, plaintiff's medical records reflect that no injuries were found when

he was examined during the afternoon of the incident. The following day, the examining nurse reported that plaintiff's left arm showed no redness, discoloration, or other signs of injury. After Dr. Ahmed viewed the x-ray of plaintiff's left arm, he ordered the nurse to remove the splint and wrap that had recently been applied.

{¶30} For the foregoing reasons, the court finds that plaintiff has failed to prove his claims by a preponderance of the evidence. Accordingly, judgment is recommended in favor of defendant.

{¶31} *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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ANDERSON M. RENICK  
Magistrate

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