

Court of Claims of Ohio

The Ohio Judicial Center
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ABDUL ABDULRAHAMAN

Plaintiff

v.

SOUTHERN OHIO CORRECTIONAL FACILITY, et al.

Defendants

Case No. 2006-06906

Judge J. Craig Wright
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 testified that on October 19, 2006, he awoke and saw water on the floor of his cell. Plaintiff stated that soon after he awoke Corrections Lieutenant Tim Howard "just showed up and sprayed me" with mace. According to plaintiff, he did nothing to warrant being sprayed. Plaintiff testified that he was thereafter handcuffed and taken to a shower without further incident.

{¶ 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} Corrections Officer (CO) Gary Hetherington was working in the “J1” housing unit of SOCF on the day of the incident and testified that at approximately 4:40 p.m. he witnessed water flooding out of plaintiff’s cell and heard plaintiff’s toilet flushing repeatedly. According to Hetherington, he turned off the water supply to the unit, called inmate porters to clean up the water, and notified the captain’s office of the incident. Hetherington prepared a conduct report as a result of the incident. (Defendant’s Exhibit A.)

{¶ 13} CO Joshua McAllister testified that he was also working in J1 on the day of the incident. McAllister testified that he observed water coming from plaintiff's cell and that plaintiff was yelling and being disruptive. McAllister stated that plaintiff was also holding a Styrofoam cup in his right hand which he believed contained feces. According to McAllister, plaintiff refused several orders to put the cup down, whereupon Howard sprayed plaintiff with mace. McAllister testified that plaintiff subsequently complied with their orders and was removed from his cell. After the incident, McAllister prepared an incident report describing these events. (Defendant's Exhibit E.)

{¶ 14} CO Howard testified that, on the day of the incident, COs called him at approximately 6:45 p.m. to report a "flood" in J1. According to Howard, when he arrived on the scene he observed water on the range and heard inmates yelling and screaming. Howard stated that he observed plaintiff arguing with porters menacingly holding a Styrofoam cup which held unknown contents. Howard testified that he ordered plaintiff to put the cup down but that plaintiff instead "came at" him with the cup whereupon he sprayed plaintiff with mace. According to Howard, plaintiff then complied with his orders and was examined by a nurse and placed in another cell until his was cleaned. Howard prepared an incident report and a conduct report following the incident. (Defendant's Exhibits B, C.)

{¶ 15} Danielle Holtz is a licensed practical nurse employed by SOCF and testified that she treated plaintiff on the day of the incident. According to Holtz, plaintiff's eyes were red, a typical reaction to mace, but he suffered no other injuries. Holtz noted her observations in a medical exam report. (Defendant's Exhibit F.)

{¶ 16} Based upon the foregoing, the court concludes that Howard and other staff involved in the October 19, 2006 incident 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

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Magistrate Steven A. Larson

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