

# 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

B.M. GOODWIN

Plaintiff

v.

SOUTHERN OHIO CORRECTIONAL FAC.

Defendant

Case No. 2007-09411-AD

Deputy Clerk Daniel R. Borchert

## MEMORANDUM DECISION

{¶ 1} Plaintiff, B. M. Goodwin, an inmate incarcerated at defendant, Southern Ohio Correctional Facility (“SOCF”), filed this complaint alleging he suffered personal injury when SOCF personnel used excessive force against him during an incident occurring on July 4, 2007. Plaintiff asserted his head, forehead, and shoulder were injured when he was slammed to a metal floor by SOCF employee Felts. Plaintiff pointed out he received subsequent medical treatment at the Pike County Hospital and has complained of continuing pain in his head, forehead, and shoulder. Plaintiff seeks damages in the amount of \$2,500.00 for pain and suffering and mental distress associated with the July 4, 2007 incident. Payment of the \$25.00 filing fee was waived.

{¶ 2} In his complaint plaintiff filed a narrative description of his recollection of the event forming the basis of this claim. Plaintiff recalled he “was on the SOCF ‘Recreation’ chain (when) C/O Felts order(ed) me to go back to my cell.” According to plaintiff, he obeyed the order to return to his cell, ascending the steps to his cellblock platform with C/O Felts following him up the stairs. Plaintiff noted when both he and Felts reached the cellblock tier platform floor area, Felts restrained him by pulling his arms behind his back and then lifted him off his feet. Plaintiff related that his head was

then slammed to the cellblock tier floor with such force that a wound opened on his head and he bled “all over the floor and (himself).”

{¶ 3} In accordance with defendant’s policy, SOCF Officer Brian Felts filed a handwritten “Use of Force Incident Report” regarding the events that occurred between him and plaintiff on July 4, 2007. Defendant submitted a copy of this “Incident Report.” In this report Felts explained, plaintiff was “ready to be placed on the Recreation Chain” with other inmates from the J-3 Level 4B cellblock when “I noticed he (plaintiff) had changed places with another inmate in line waiting to be placed in the chain.” Felts recalled, upon observing this act by plaintiff, he “instructed Inmate Goodwin to return to his cell for the safety of the other inmates on the Recreation Chain.” Felts noted plaintiff refused to comply with the instruction to return to his cell and refused subsequent direct orders to return to his cell. Felts recorded, “I then noticed Inmate Goodwin attempting to turn his right hand from our mandated palms out position to palms in on his handcuffs, as he was starting to walk in the area of the stairs; palms in gives the inmate a serious advantage in the ability to slip his hand out of his cuffs.” In response to plaintiff’s hand maneuver, Felts related he used his right hand to hold the handcuffs and also to attempt to return plaintiff’s right hand to the mandated palms out position. According to Felts, plaintiff “then rotated his hand (right) around in the handcuffs and took control of my right thumb bending it back in the direction of the back of my hand causing severe pain in my right hand and wrist.” Felts stated when he attempted to pull away from plaintiff’s grasp, “it caused both of us to land on the 61-80 landing severely hard on the open grating.” Felts recorded that when he and plaintiff fell he was able to pull away from plaintiff’s grasp. Felts wrote under the “Action Taken” section of the Incident Report “that both he and plaintiff were checked by the SOCF medical staff.”

{¶ 4} Defendant submitted copies of the “Medical Exam Report” for both plaintiff and Officer Brian Felts compiled on July 4, 2007 by SOCF medical personnel. Under the heading “Objective Physical Findings” on plaintiff’s exam report it is noted: “4” laceration to forehead denies point tenderness (upon) palpation denies loss of consciousness.” Plaintiff was found to be alert and oriented, his skin was warm and dry, and his respiration was normal. The report indicated plaintiff was treated with a pressure dressing at his head trauma wound site and his bleeding was stopped at SOCF before he was transported to an outside facility (Pike County Hospital) for further

treatment and evaluation. The exam report for Officer Felts recorded that he complained of slight pain at the base of his right thumb. There was no observable injury or trauma to the thumb or hand with no swelling or deformity noted. According to the exam report, Felts required no further treatment other than applying ice to the affected area and he was released to “return to post.” No treatment record for plaintiff from the Pike County Hospital was filed.

{¶ 5} Defendant referred the July 4, 2007 incident involving plaintiff and Officer Felts to the SOCF “use of force committee” pursuant to the Administrative Regulations 5120-9-02.<sup>1</sup> The “use of force committee” accepted written statements from both plaintiff and Officer Felts regarding their recollections of the events of July 4, 2007. Copies of the written statements were submitted.

{¶ 6} In a written statement to the “use of force committee,” plaintiff related he approached the steps to return to his cell when “Felts grabbed me yanked me up and dragged me up the steps.” Plaintiff further related “he (Felts) said are you trying to mess with my finger or my thumb.” According to plaintiff, Felts immediately after making the referenced statement, “slammed me hard on the steel grate landing in J3.” In another written statement plaintiff recorded, “I did nothing to the C/O. He pushed me down on the floor.

{¶ 7} Felts related in his statement to the “use of force committee” that he ordered plaintiff to return to his cell after plaintiff refused to take his assigned place in the “Recreation Chain” line. Felts reported that he attempted to physically escort plaintiff back to his cell after plaintiff refused to return to the cell on his own. Felts described the action noting, “I just placed my palms on his handcuffs to begin walking

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<sup>1</sup> Ohio Adm. Code 5120-9-02(F) and (G) provide:

“(F) The use of force committee shall consist of two persons assigned by the warden or designee. The task of the use of force committee is to conduct a review of the use of force incident and an investigation into the matters surrounding the incident. The committee shall not include any person involved with the incident under investigation, nor such person’s direct supervisor, nor any person who reviewed some other aspect of the incident, such as the hearing officer or a member of the rules infraction board. The person appointed to chair this panel must complete training for that position.”

“(G) The use of force committee shall review all materials in the use of force packet and any findings previously made. The committee shall also interview each inmate and staff member directly involved, and any other witness it considers relevant. These interviews shall be completed within twenty working days of the date the matter was referred to the committee. Any extensions must be approved by the warden. All interviews shall be electronically recorded. The committee shall review any other evidence that it considers relevant.”

him up the stairs (and) as we neared the top steps he turned his hands in his handcuffs and grabbed my thumb and was bending it.” Felts pointed out as he tried to pull himself away from plaintiff’s grasp, both he and plaintiff, “tripped over the top stairs and landed on the top landing.”

{¶ 8} Based on the information provided, defendant has denied any liability for the injury plaintiff received on July 4, 2007. Defendant contended plaintiff failed to offer sufficient evidence to establish, “that Officer Felts or any other employee of the defendant acted in a negligent manner; or that he suffered any harm as a result of such negligence.” Defendant further contended plaintiff failed to show his head injury was the direct result of being assaulted.

{¶ 9} Plaintiff filed a response insisting he was injured on July 4, 2007 as a result of Officer Felts’ use of excessive force. Plaintiff reasserted the excessive force consisted of “slamming his/my forehead region into a metal floor grate.” Plaintiff noted he was “in behind hand(cuffs) with palm out and also in leg iron (cuffs)” at the time of the incident and was therefore, “defenseless.” Plaintiff asserted defendant did not conduct a proper investigation of the incident since no inmate witnesses were asked to provide statements to the “use of force committee.” Plaintiff accused defendant of engaging in a cover-up of the whole matter. Plaintiff implied he was intentionally attacked by Officer Felts.

{¶ 10} Plaintiff submitted a handwritten statement from fellow inmate Robert Perdue, who asserted he witnessed the events of July 4, 2007 when plaintiff was injured. Perdue recorded the following: “I accidentally got in front of (inmate) Barry Goodwin try to look out window; it wasn’t his fault; I/M went up steps as ordered to return to cell; Felt [sic] walk behind after words was pass between c/o Felts and Goodwin; then c/o claims I/M was slipping [sic] his cluff [sic] I witness all of it, I couldn’t say anything stop it RE: c/o attack/use of force.” Perdue related he saw plaintiff strike his forehead on the metal grate cellblock floor.

{¶ 11} 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:

{¶ 12} “(C) There are six general situations in which a staff member may legally use force against an inmate:

{¶ 13} “(1) Self-defense from an assault by an inmate;

{¶ 14} “(2) Defense of third persons, such as other employees, inmates, or visitors, from an assault by an inmate;

{¶ 15} “(3) Controlling or subduing an inmate who refuses to obey prison rules and regulations;

{¶ 16} “(4) Prevention of crime, such as malicious destruction of state property or prison riot;

{¶ 17} “(5) Prevention of escape; and

{¶ 18} “(6) Controlling an inmate to prevent self-inflicted harm.”

{¶ 19} The court has recognized that “corrections officers have a privilege to use force upon inmates under certain conditions. \*\*\* However, such force must be used in the performance of official duties and cannot exceed the amount of force which is reasonably necessary under the circumstances. \*\*\* 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, 593 N.E. 2d 482. (Internal citations omitted.)

{¶ 20} The degree of an injury might, in some cases, be an indicator of the amount of force used or be useful in resolving a factual dispute, and thereby be relevant to determining the excessiveness issue. See, e.g., *Watley v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2004-09061, 2006-Ohio-1109. Evidence in the instant action shows plaintiff suffered a laceration on his forehead of approximately four inches in length when he fell upon the metal grate floor of the J3 cellblock on July 4, 2007. Statements of plaintiff and Officer Felts are in conflict concerning how plaintiff received the laceration injury. Officer Felts consistently stated plaintiff fell upon the grate floor during a struggle brought on by plaintiff grasping Officer Felts’ thumb. Plaintiff stated he was intentionally “slammed” to the floor after being lifted bodily off the floor by Officer Felts. Plaintiff also stated he fell and struck his head against the floor as a result of Officer Felts pulling at his handcuffs. Another time, plaintiff stated he was pushed down on the floor by Officer Felts. The trier of fact finds that the injury suffered by plaintiff is consistent with a fall. The trier of fact also finds the statements of Officer Felts regarding the events of July 4, 2007 to be persuasive. Based on the evidence

presented, the court finds any force Officer Felts used was justified under Ohio Adm. Code 5120-9-01(C)(1) and (3).<sup>2</sup> Both plaintiff and his witness, inmate Robert Perdue, offered statements asserting plaintiff was obeying all rules and was intentionally attacked by Officer Felts. The credibility of witnesses is an issue primarily for the trier of fact. *Seasons Coal Co. v. Cleveland* (1984), 10 Ohio St. 3d 77, 10 OBR 408, 461 N.E. 2d 1273. The trier of fact is free to believe all, part, or none of the statements of any witnesses. See, *State v. Long* (1998), 127 Ohio App. 3d 328, 335, 713 N.E. 2d 1. The trier of fact does not find the statements of plaintiff and Robert Perdue in regard to the events of July 4, 2007 to be particularly persuasive. The court finds no evidence to support plaintiff's allegations that defendant's employee used excessive force against him on July 4, 2007. Furthermore, based on persuasive evidence, the court finds that Officer Felts did not assault plaintiff on July 4, 2007.

{¶ 21} To the extent that plaintiff asserts a claim of negligent supervision, the court notes that in order to prove such a claim, plaintiff has the burden to establish: 1) the existence of an employment relationship; 2) the employee's incompetence; 3) the employer's actual or constructive knowledge of such incompetence; 4) the employee's act or omission causing plaintiff's injuries; and 5) the employer's negligence in retaining the employee as the proximate cause of plaintiff's injuries. *Evans v. Ohio State University* (1996), 112 Ohio App. 3d 724, 739, 68 N.E. 2d 161. Inasmuch as plaintiff has failed to produce sufficient evidence to support his claims of excessive force, any claim purporting negligent supervision fails as a matter of law. Plaintiff's claim is denied.

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<sup>2</sup> Ohio Adm. Code 5120-9-01(C)(1) and (3) provide:

“(C) There are six general situations in which a staff member may legally use force against an inmate:

“(1) Self-defense from an assault by an inmate;

“(3) Controlling or subduing an inmate who refuses to obey prison rules and regulations.”

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ENTRY OF ADMINISTRATIVE DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of defendant. Court costs are assessed against plaintiff.

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DANIEL R. BORCHERT  
Deputy Clerk

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