



LGIT'S COMMANDER'S LOG **DECEMBER 2005**

THE "STATE OF MIND" COMPONENT OF A FEDERAL EXCESSIVE FORCE CLAIM AGAINST A CORRECTIONAL OFFICER

QUESTION: MUST AN INMATE ALLEGING THAT A CORRECTIONAL OFFICER VIOLATED HIS CONSTITUTIONAL RIGHT TO BE FREE FROM EXCESSIVE FORCE PROVE THAT THE OFFICER ACTED WITH A PARTICULAR STATE OF MIND?

ANSWER: YES. TO PREVAIL ON A FEDERAL EXCESSIVE FORCE CLAIM, AN INMATE MUST PROVE THAT THE CORRECTIONAL OFFICER USED FORCE TO INFLICT UNNECESSARY AND WANTON PAIN AND SUFFERING, NOT IN A GOOD FAITH EFFORT TO RESTORE ORDER OR MAINTAIN PRISON DISCIPLINE.

CASE: *Sherrill v. Pereira*, 2005 WL 1279172 (D. Maryland); Decided May 31, 2005

In *Sherrill v. Pereira*, the United States District Court for the District of Maryland reaffirmed that the analysis of cruel and unusual punishment (excessive force) claims against correctional officers "necessitates inquiry as to whether the prison official acted with a sufficiently culpable state of mind (subjective component) and whether the deprivation suffered or injury inflicted on the inmate was sufficiently serious (objective component)." (Quoting *Williams v. Benjamin*, 4th Circuit Court of Appeals 1996). In the last Commander's Log (September 2005), the "objective" or "more than *de minimis* injury" component of an excessive force claim was discussed. In this edition, the subjective or "state of mind" component is considered.

In *Sherrill v. Pereira*, the facts showed that Paul Sherrill was an inmate housed in the Howard County Detention Center's disciplinary unit. As a result of having been caught throwing trash from his cell, he and his cell mate were ordered moved to new cells. Sgt. Farrow was assigned to move Sherrill to his new cell. Sgt. Farrow handcuffed Sherrill and escorted him without incident to the vicinity of the new cell. When they reached the new cell, Sherrill stopped and refused to enter the cell. Sgt. Farrow repeatedly ordered Sherrill to enter the cell and, each time, Sherrill refused. Sgt. Farrow then placed his right hand on Sherrill's left upper arm and motioned for Sherrill to move forward. Instead, Sherrill spun counter-clockwise into Sgt. Farrow's torso, catching Sgt. Farrow's right forearm between the cuffs. Despite Sherrill's actions, Sgt. Farrow was able to use leverage to move Sherrill into the cell. Once inside the cell, Sgt. Farrow untangled the inmate.

An incident report was generated as a result of the altercation. Sherrill was interviewed regarding what had happened, and said, "I was refusing to go into [the cell] and he forced me in by grabbing at my cuff—his arm got caught and we struggled—it shouldn't have happened like it did." After the altercation, Sherrill was seen by the medical department. The

assessment revealed that Sherrill's right wrist was abraded, and a superficial laceration was cleaned and covered with a band-aid. The records from Sherrill's two subsequent trips to the medical department established that his right hand had a mild "abrasion and edema." An x-ray of Sherrill's wrist was negative.

Sherrill sued Sgt. Farrow and Melanie Pereira, the Director of the Howard County Department of Corrections, as a result of the occurrence. The defendants moved for summary judgment. In granting the motion, the court reaffirmed that, in order to prevail on an excessive force claim, an inmate must satisfy both a subjective and an objective standard. Concerning the objective standard, the inmate need not show that the force caused an "extreme deprivation" or "serious" or "significant" pain or injury to establish a cause of action. All that is necessary is proof of more than *de minimis* pain or injury.

In order to meet the subjective or "state of mind" component, the inmate must show that the force the officer used inflicted unnecessary and wanton pain and suffering. And, if the force was used during a "prison disturbance", the inmate must show wantonness by proving that the officer used the force "maliciously and sadistically for the very purpose of causing harm" and not as part of a good faith effort to maintain discipline or restore order. (*Whitley v. Albers*, U.S. Supreme Court, 1986.)

In the *Sherrill* case, the court first determined that Sherrill had established only *de minimis* injuries, and that this fact, standing alone, was fatal to his claim. However, even if Sherrill had sustained a more serious injury, the court observed that there was no evidence to satisfy the subjective or "state of mind" component of his claim. There was no dispute that Sherrill was given a direct order to enter his cell and refused. Sgt. Farrow then placed his hands on Sherrill in an effort to guide him into the cell. Sherrill then attacked Sgt. Farrow. A minor altercation ensued, with Sherrill being physically placed in his cell. From this evidence, it was clear that some force was required to fend off Sherrill's attack and obtain his cooperation. Where an inmate refuses to follow a direct order and attacks a correctional officer, the officer may use force in an attempt to gain compliance with a lawful order and to avoid exposing any other person who might be near to a potentially dangerous situation. Since the use of force occurred only after Sherrill attacked Sgt. Farrow and refused to obey a direct order, the Court concluded that Sherrill had not shown that Sgt. Farrow acted maliciously and sadistically to cause him harm.

NOTE: Cases like *Sherrill* emphasize the need for correctional officers to establish in all incident and/or use of force reports that their use of force was in compliance with all departmental rules and regulations. Attention to detail, including the reasons for any escalation in the amount of force used, should be carefully documented. Just because an officer may approach an inmate in a good faith attempt to maintain discipline or restore order does not immunize the officer's later actions from a finding that pain and suffering was wantonly inflicted.

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