

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

STEVEN BEARD, )  
 )  
 Plaintiff, )  
 )  
 vs. ) Case No. 01-1381-JTM  
 )  
 DAVID RIGGIN, et. al., )  
 )  
 Defendants. )  
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**MEMORANDUM AND ORDER**

The plaintiff, Steven Beard, brings this action seeking damages from the defendants David Riffin, Barbara Schneider, and Amy Craig, pursuant to 42 U.S.C. § 1983, alleging they caused him to be held in prison when his release was mandated by Kansas statutory law. The plaintiff alleges the defendants deprived him of rights secured by the Eighth and Fourteenth Amendments to the United States Constitution. This matter was tried to the court on January 21 through 22, 2004.

**I. Procedural background**

The issues relevant to the defendants' liability were litigated in the court's order disposing of the defendants' summary judgment motion. (Dkt. No. 68). A fuller discussion of this matter is provided in the court's order regarding the parties' in-limine motions. (Dkt. No. 105). In Dkt. No. 68, the court adopted 62 uncontroverted facts and found the defendants acted with deliberate indifference to whether the plaintiff's sentence was illegal. As stated in Dkt. No. 105, these findings were incorporated into the pre-trial order. Now, the court considers the issue of damages.

## II. Findings of fact

The court adopts the findings set out in the pretrial order and makes these additional findings of fact, based upon the documentary exhibits, and the testimony and credibility of the individual witnesses.

Beard's prison sentence in 87 CR 150 was recorded as served in June 1997 by Schneider pursuant K.S.A. § 22-3717(f) (Supp. 1993) and the holding in *Payton v. State*, 22 Kan. App. 2d 843, 923 P.2d 1059 (1996). In April 1998, almost one year later, Riggin found out Beard was to be released from prison early. Riggin, as head of sentence computation at the Kansas Department of Corrections (KDOC), ordered the reinstatement of Beard's prison sentence in 87 CR 150. No statute, court decision, or written KDOC rule, regulation, policy, or procedure authorized Riggin to reinstate Beard's prison sentence. Riggin revived Beard's prison sentence in violation of K.S.A. § 22- 3717(f) (Supp. 1993) and the Kansas Court of Appeals decision in *Payton v. State*, which held that it was necessary to adhere to the plain language of § 22-3717.

If Riggin discussed Beard's case with legal counsel, Riggin testified he would have spoken with KDOC Chief Counsel Timothy Madden or KDOC Deputy Chief Counsel Linden Appel. Riggin, Madden, and Appel all testified they have no memory of a discussion about Beard or his unique situation. There is no documentation of any meeting.

Timothy Madden, senior counsel to the Kansas Secretary of Corrections, testified the decision to un-convert Steven Beard's sentence was legal. Madden admitted his position is directly opposed to the position taken by the Kansas Secretary of Corrections in *Beard v. Simmons*. The defendants cannot point to any case before Beard's case or since in which the KDOC has un-converted a served sentence.

The defendants presented the 1993 Kansas Court of Appeals' unpublished decision in *State v. Hannon*, Appellate No. 68,319, as authority for Riggins' decision to un-convert Beard's sentence in 87 CR 150. *Hannon* does not authorize the un-conversion of a sentence under K.S.A. § 22-3717(f) (Supp. 1993).

Defendant Barbara Schneider followed Riggins' order and reinstated Beard's prison sentence in 87 CR 150. She knew of the *Payton* decision when she did so.

In June 1998, defendant Amy Craig reviewed Beard's reinstated prison sentence and certified it as correct. Craig also knew of the *Payton* decision at that time. When she certified Beard's prison sentence, Craig knew or should have known the sentence had been served and then reinstated. She examined Beard's file, and had conducted a review of Beard's sentence at least once before in May 1997.

The reinstatement of Beard's old prison sentence in 87 CR 150 resulted in his illegal imprisonment in a Kansas maximum security prison for exactly 1,000 days. Other than death, imprisonment in a maximum security prison is the worst punishment the state of Kansas can impose on anyone. While in prison, Beard slept on a three inch mattress lying on top of a solid sheet of steel. He was regularly shackled hand and foot. When he needed to use the restroom, Beard was required to do so in front of prison guards and his cell mates. When Beard was allowed to shower, he had a maximum shower time of five minutes. At these times, he was required to shower with 15 to 20 other inmates. While imprisoned, Beard was regularly strip searched. During a strip search, he was required to completely undress in front of a prison guard, then display the inside of his mouth, his genitals, and his rectum. The inmates in Kansas maximum security prisons often divide the cafeteria into territories favored by different racial

groups or gangs. While he was imprisoned, Beard regularly ate standing up for fear of being beaten if he sat in the wrong seat. Beard was regularly confined to a small cell alone with nothing to occupy him. Although books from the library were available, Beard cannot write and cannot read anything substantial. The cell blocks where Beard was housed are not air conditioned. Beard was regularly confined to his cell with no way to cool himself.

During his imprisonment, Beard understood that, under Kansas law, he should not be imprisoned. Beard asked for help from KDOC officials several times. He attempted to contact Legal Aid for Prisoners at the Hutchinson Correctional Facility without success. Beard finally contacted Legal Aid for Prisoners at the Lansing Correctional Facility (LCF). An attorney at LCF filed Beard's habeas corpus action and secured his release.

Beard's father suffered a massive heart attack in March 2002. He was placed in the hospital on life support and died a few days later. A preponderance of the evidence including testimony and Beard's chronological file<sup>1</sup> shows Beard did not request to attend the funeral.

While imprisoned, Beard was unable to work outside the prison and lost those wages. While Beard was illegally imprisoned, the federal minimum wage was \$5.15 an hour. One thousand days breaks down into about 143 weeks. Five dollars and fifteen cents an hour multiplied by 40 hours a week multiplied by 143 weeks equals \$29,458. Mr. Beard lost wages in the amount of \$29,458.

### **III. Conclusions of law**

The defendants, acting with deliberate indifference, violated Beard's constitutional rights protected by the Eighth and Fourteenth Amendments. Pursuant to 42 U.S.C. § 1983, Beard is

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<sup>1</sup>Exhibit 402

entitled to judgment against the defendants. It is uncontested that the defendants acted under the color of state law. The defendants are not entitled to qualified immunity. The defendants caused the violation of constitutional rights clearly established at the time of the violation.

The court therefore awards Beard compensatory damages of \$138,600. In addition, the court awards Beard compensatory damages of \$29,458 for the wages he lost while illegally imprisoned. The court further finds Beard failed to present credible medical evidence that his imprisonment aggravated his mental disorder.

The court need not find that the defendants acted with malice in order to award punitive damages. In a Section 1983 action, a finding of punitive damages requires that defendants' conduct "is shown to be motivated by evil motive or intent," or "involves reckless or callous indifference to the federally protected rights of others." *Jackson v. Austin*, 241 F.Supp. 2d 1313, 1323 (D. Kan. 2003) (citing *Nieto v. Kapoor*, 268 F.3d 1208, 1222 (10<sup>th</sup> Cir. 2001)) (additional citations omitted). However, upon review of the documentary exhibits and the testimony of the individual witnesses, the court finds an award of punitive damages is not warranted in this case.

The court may allow the prevailing party to recover attorneys' fees in any action or proceeding to enforce 42 U.S.C. § 1983. 42 U.S.C. § 1988. The court finds an award of attorneys' fees is appropriate in this case. The procedure set out in D. Kan. Rule 54.2 shall apply.

IT IS SO ORDERED this 29<sup>th</sup> day of March, 2004.

s/ J. Thomas Marten  
J. THOMAS MARTEN, JUDGE

UNITED STATES DISTRICT COURT

DISTRICT OF KANSAS

STEVEN BEARD,

Plaintiff,

**JUDGMENT IN A CIVIL CASE**

v.

DAVID RIGGIN, et al.,

Case Number: 01-1381-JTM

Defendants.

**Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED in accordance with the court's Memorandum and Order filed July 25, 2003, (Dkt. No. 68), that defendants' motion for summary judgment is denied.

IT IS FURTHER ORDERED AND ADJUDGED in accordance with the court's Memorandum and Order filed March 29, 2004, that plaintiff is awarded compensatory damages in the amount of \$138,600, and compensatory damages of \$29,458 for lost wages while illegally imprisoned.

March 29, 2004

\_\_\_\_\_  
Date

RALPH L. DeLOACH, CLERK

By s/ R. Thompson

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Deputy Clerk