

## **Inmate Wins \$10 Verdict After Fight With Correction Officer**

Fight with correction officer leads to criminal prosecution, civil trial

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***Joseph Izzo v. Warden Peter Murphy et al.***: A prison inmate who claims he was beaten for no reason by correction officers was recently awarded \$10 by a federal jury.

Joseph Izzo, an inmate serving a 30-year prison sentence for burglary, conspiracy and possession of a firearm, claims that on Oct. 3, 2009, James Papciak, a correction officer at McDougall Walker Correctional Institution in South Suffield, assaulted him for no reason.

Izzo's court-appointed pro bono attorney, Antonio Ponvert III, of the Bridgeport firm of Koskoff Koskoff & Bieder, said two other officers, Felix Graziano and Mariusz Maloid, joined in the fracas after it became apparent that the inmate was more than holding his own in the fight.

Ponvert said the officers "beat the crap" out of his client, who suffered numerous cuts and bruises. "Officer Papciak's attack was simply for sport," Ponvert said. "This case stands for the constitutional principle that even the least powerful citizens of this country are entitled to be treated with dignity and respect."

The officers claimed that Izzo started the incident and he was charged with assault on Department of Correction staff. He was found guilty in a prison proceeding and sent into segregation for 30 days. He was also charged criminally by the State Police. He quickly pleaded guilty and a judge sentenced him to one year in prison to run concurrent with the time he was already serving.

Izzo then filed a federal civil lawsuit against the three correction officers and their boss. The officers were represented by two Connecticut assistant attorneys general, Steven Strom and James Caley. A spokeswoman in the attorney general's office referred comment to the Correction Department.

Karen Martucci, the department's acting director of external affairs, said that regardless of the jury's verdict, correction officials support all of the staff members involved in this incident. "Although the Department of Correction respects the jury and their decision, we adamantly disagree with a finding that reflects any culpability on Officer Papciak," said Martucci. "This officer utilized his training and experience in emergency response protocol to restrain an assaultive inmate with a lengthy history of disciplinary reports for threats and fights. Not presented to the jury was the fact that inmate Izzo was charged and pleaded guilty to assaulting Officer Papciak in a criminal case directly connected to this same incident."

Ponvert claims the incident was caught on video and the civil jury viewed it. He said the footage contradicts the correction officers' stories.

For instance, Ponvert said Papciak testified that inmate Izzo was causing a disturbance, but the video shows him standing still before the melee. At that point, according to Papciak's story, he ordered Izzo to turn around, face the wall and put his hands behind his back. When he failed to comply, the fight began.

At the trial, Ponvert asked Papciak if he gave Izzo a reasonable amount of time to comply with his order. Papciak, who has worked at the prison for nine years, testified that he had provided enough time, but Ponvert said the video shows otherwise. "When you look at the video, what you see is Papciak running up the stairs and running directly at my client," said Ponvert. "He never pauses for even a split second."

Izzo's lawsuit alleged unlawful assault and battery by the officers. The case went to trial before U.S. District Judge Stefan Underhill in late March. Testimony lasted two days, followed by about eight hours of jury deliberations.

The jury found Papciak liable for the assault and battery but not the other two officers. Ponvert assumes the jury viewed the other two officers as simply breaking up the fight that already had ensued. The jury awarded Izzo \$10 in damages.

"We had no economic damages. There was limited pain and suffering," Ponvert said, explaining the modest dollar amount. "But what we had was, in my view, and I think the jury agreed, a really clear violation of Mr. Izzo's rights against the use of excessive physical force." Ponvert said Underhill instructed the jurors that if they found a civil rights violation but no clear compensable damages, they should still rule for the plaintiff. The judge said if they could not calculate the monetary worth of those violated rights, they should award nominal damages of \$10.

"It's becoming more common; it used to be a dollar," said Ponvert, who received a pro bono representation award from the federal court last year. "It probably reflects inflation more than anything."

Ponvert said the dollar amount was immaterial to his client. "He told me from the very beginning, 'I don't want the money. I want the jury to understand what goes on behind bars,'" the attorney said. "He felt the jury treated him like a human being. They saw through the subterfuge of the defense and rendered a verdict that really does reflect justice. He was very pleased."•