

Prisoner Prevails In Lawsuit Over Moldy Mattress

By KAREN ALI

February 07, 2014



Atty. Antonio Ponvert III

Prison inmate Harold Bell spent seven months at MacDougall-Walker Correctional Institution in Suffield using a mattress that he said was slashed down the middle and smelled like mold and mildew. As a result, he said, he had difficulty sleeping, joint pain and headaches.

The 38-year-old Bell was so upset he filed a federal lawsuit by himself — handwriting some of the documents — in which he alleged he was the victim of cruel and unusual punishment. Inmates seldom prevail in lawsuits over prison conditions, but on Jan. 31 a Superior Court jury agreed with Bell and awarded him \$12,000.

"It is very rare for an inmate to win a case like this," said **Koskoff Koskoff & Bieder** attorney **Antonio Ponvert III**, who handled the case at trial, where Bell testified.

The inmate, who is serving a 12-year-sentence for felony assault with a firearm, was awarded \$5,000 in compensatory damages for civil rights violations and \$7,000 for punitive damages. To award punitive damages, Ponvert said, the jury had to find the state prison system had malicious intent to cause harm.

Ponvert joined the case last September after Bell had already successfully won two motions. The government had filed one motion to dismiss the case and another for summary judgment. "He's a very smart man," Ponvert said. "It was pretty remarkable. He did a lot of research in prison."

Ponvert said that the letter Bell wrote him from prison, asking him to take the case, was one of many he gets each week from prisoners. "This one struck me as different," Ponvert said. "The money was not important for him. The important thing is how he was treated."

Jaclyn Falkowski, communications director for Attorney General George Jepsen, whose office defends all lawsuits against state agencies, said the office respects the jury's decision. "While no firm decision has been made, we are unlikely to appeal," Falkowski said.

Bell first complained of the bad mattress in June 2008 and reportedly made nearly two dozen requests for a better one in the next few months.

It wasn't until January 2009 that he received a new mattress; a correctional guard seemingly took pity on Bell after seeing the problem during a prison lockdown and quietly had it replaced.

Still feeling ignored by prison officials, Bell brought the lawsuit in 2010, naming as defendants Warden Peter Murphy and others who worked at the facility. Ponvert said there are a number of reasons why inmates have trouble winning lawsuits. "There's not a lot of lawyers bringing these cases," Ponvert said. "Most [inmates] file themselves, and are at a disadvantage because they aren't experienced with filing a complaint."

Bell also had another challenge: Juries don't tend to favor convicted criminals. "Even if they make it all the way to trial, past all the motions, there is a natural prejudice against prisoners," Ponvert said.

Ponvert said he had to try to persuade the jury to see his client is a human being. He offered the argument that the prison officials didn't just hurt Bell's health, but that they betrayed taxpayers who hired them to make sure inmates were treated in a manner consistent with the Constitution.

"Also, if you inflict seven months of sleep deprivation on anyone, it will create a difficult population to manage," Ponvert said. "All of these men are going to get out. If you treat somebody like an animal for 12 years, that's not going to bode well for society... If you treat them like a dog, you have to expect that they are going to behave accordingly."

As for the monetary damages, there is something called an incarceration lien. That allows the state to take some of the money an inmate wins in any legal claim or collects through inheritance. But Ponvert said he will challenge any attempt by the state to keep any of Bell's money. He also said he'll advise Bell to put his share into a bank account for when he gets out of prison.

Ponvert said the only other similar case he can remember was in 2006 when he won a verdict in federal court for an inmate who was punched by a prison official.

"So what I really hope happens in terms of precedent is that they'll think twice before jerking someone's chain like this," Ponvert said. "I hope it will spare a lot of prisoners' misery."