

The following column is slated to appear in the Middletown Press, New Haven Register and Torrington Register.

Cool Justice: Jurors affirm man with rotten mattress is a human being



Harold Bell Photo provided by Department of Corrections

By [Andy Thibault](#), Register Citizen

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June 25, 2008 was like every night for Harold Bell.

Bell lay curled up in a fetal position on or in a moldy mattress that had been slashed and slit down the center. He tossed and turned and moaned among the remaining insulation materials.

He was not allowed to sleep on the floor or toss the rotten mattress on the floor.

The Federal Emergency Management Agency reports that typical symptoms reported from mold exposure include: Respiratory problems – wheezing, asthma attacks; Nasal and sinus congestion or dry, hacking cough; Eye irritation – burning, watery, redness; Nose or throat irritation – sneezing fits, bloody noses; Skin irritations – rashes or hives; Nervous system – headaches, memory loss, mood changes; Aches and pains. If mold exposure is unavoidable, FEMA advises, sensitive people should wear tight-fitting masks or respirators.

Short of a visit by SEAL Team 6, there was no way he would get a mask or respirator. Government officials including medical staff knew full well about Bell's cruel and unusual punishment, but did little or nothing to alleviate it for seven months. Indeed, staff tormented him when he asked for a safe mattress, saying things like, "I don't have mattresses like that" even as a stack of unused mattresses was left in plain view in a hallway.

Bell was just another subhuman particle at the MacDougall-Walker Correctional Institute in Suffield.

Notably, an entity called Correctional Enterprises of Connecticut actually manufactures mattresses. The state Correction Department asserts this division offers "inmates opportunities to be productive, learn new skills, be accomplished and responsible, thus aiding in the overall safety and security of the agency. This is accomplished through voluntary inmate participation in CEC's production shops, which reduce prison idleness, instill work ethic, and promote skill development."

So much for mission statements and reality: Who's in charge of quality control for distribution?

Bell submitted a detailed request for a safe mattress on June 26, 2008. He made follow-up requests on dates including July 14, Aug. 4, Aug. 6, Aug. 10, Aug. 18, Aug. 19, Aug. 24, Aug. 25, Aug. 26, Aug. 27, Aug. 28, Aug. 29, Sept. 10, Sept. 15, Oct. 16, Oct. 17, Oct. 19, Nov. 10, Dec. 1, Dec. 15 and Dec. 19. In the course of these requests, he noted pre-existing conditions including asthma and glaucoma.

"He followed the rules perfectly," said attorney Antonio Ponvert of Koskoff Koskoff and Bieder in Bridgeport. Later, Ponvert would be appointed as Bell's pro bono lawyer in federal court.

Yet, Bell was still without a safe mattress, despite an order by Warden Peter Murphy to provide one for him. The rotten mattress had been used by perhaps dozens of other inmates over the course of 25 years, Ponvert told me.

Because of the intense pain Bell suffered, Ponvert said, a prison doctor gave him large doses of ibuprofen – up to 1,800 milligrams per day for six months. This treatment put Bell at risk for maladies including holes in his intestine and bleeding, Ponvert said.

In what might have been a quirk of fate, the jail was put on lockdown on Jan. 14, 2009.

As he returned to his cell, Bell said a correction officer named Heller told him something to the effect of, "We got you another mattress." This unheralded act of a Good Samaritan in this nightmarish tale of depraved and deliberate indifference must be commended.

On his own, Bell filed a lawsuit in 2010. He asserted the Correction Department engaged in "cruel and unusual punishment," violating the Eighth Amendment.

"Nobody wins these things," Ponvert said.

Somehow, though, Bell's action survived challenges by the Correction Department and the Attorney General to move forward. Many talented and seasoned lawyers have a spotty record when it comes to challenging the government in this venue.

The case went to trial last week. U.S. District Judge Michael Shea appointed Ponvert as pro bono counsel. That's as good as it gets for any inmate or free citizen for that matter. Ponvert, whose victories include a \$41.75 million medical settlement and more than a few other multi-million dollar verdicts, is a faculty member at Gerry Spence's Trial Lawyer College in Wyoming.

Bell, 38, is an African American from Bridgeport who has served about two thirds of a 12-year sentence for felony assault with a firearm. The jury of six plus an alternate was made of six white people and one person of color.

"I asked the jury to keep in mind the purpose of the Eighth Amendment and to do what they thought was right," Ponvert told me. "I didn't ask for a specific dollar amount [in damages]."

The jury indeed found the state of Connecticut engaged in cruel and unusual punishment, violating Bell's constitutional rights. It awarded him \$5,000 for the civil rights violation and \$7,000 in punitive damages.

A spokeswoman for Attorney General George Jepsen told the Associated Press an appeal is unlikely. The decision to take this case to trial demonstrates unequivocally that truth, justice and humanity are not factors in the AG's decision-making process. The Correction Department would not comment, pleading ignorance: "couldn't comment before reading the decision." That's an insult to taxpayers.

"This is probably the first time," Ponvert said, "anyone has seen him [Bell] as a human. He felt vindicated. He felt the jury heard the truth."

Noting the facts of the case were not challenged, Ponvert said, "It would be nice to think it would result in more careful supervision, but I don't think that will happen. I hope it does deter other correction officials from treating men and women in their custody like animals."

Defendants in the case were: Norberto Luna, unit manager; Carol Chapdelaine, deputy warden; James Vadnais, inmate remedies coordinator; Colin Wilson, unit counselor; Peter Murphy, warden; and Timothy Silvas, prison doctor.

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