

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

KENNETH FRANCIS REEDER, JR.,)
)
 Plaintiff,)
)
 v.) C.A. No. 99-328-SLR
)
 SGT. RODNEY REYNOLDS and)
 C/O EMORY L. HOWELL,)
)
 Defendants.)

MEMORANDUM ORDER

At Wilmington this 25th day of February, 2003, having reviewed plaintiff's motion pursuant to Fed. R. Civ. P. 59 for a partial new trial limited to damages and the papers submitted in connection therewith;

IT IS ORDERED that said motion (D.I. 136) is denied, for the reasons that follow:

1. Federal Rule of Civil Procedure 59(a) provides that a new trial may be granted as "to all or any of the parties and on all or part of the issues." In determining whether a new trial is warranted, the court is guided by the Third Circuit's directive in a case factually similar to the one at bar:

Where the practice permits a partial new trial, it may not properly be resorted to unless it clearly appears that the issue to be retried is so distinct and separable from the others that a trial of it alone may be had without injustice. Consistent with these

principles, a new trial limited solely to damages is improper where the question of damages . . . is so interwoven with that of liability that the former cannot be submitted to the jury independently of the latter without confusion and uncertainty, which would amount to a denial of a fair trial. That is, [t]he grant of a partial new trial is appropriate 'only in those cases where it is plain that the error which has crept into one element of the verdict did not in any way affect the determination of any other issue.

Pryer v. Slavic, 251 F.3d 448, 454-55 (3d Cir. 2001) (internal citations and quotations omitted). The Third Circuit concludes by stating:

[W]e have steadfastly applied this standard to prevent limited new trials where a tangled or complex fact situation would make it unfair to one party to determine damages apart from liability, or where there is reason to think that the verdict may represent a compromise among jurors with different views on whether defendant was liable.

Pryer, 251 F.3d at 455 (internal citations and quotations omitted).

2. On August 8, 2002, the jury in this case returned a verdict in favor of plaintiff on his claim of excessive force. More specifically, the jury found that each of the defendants violated plaintiff's 8th Amendment rights to be free from cruel and unusual punishment by applying excessive force to plaintiff "maliciously and sadistically for the very purpose of causing harm" and that, additionally, each of the defendants "acted willfully, deliberately, maliciously or with reckless disregard of plaintiff's constitutional rights." (D.I. 128) Despite these specific findings, the jury awarded no compensatory damages to

plaintiff.

3. There was evidence of injuries presented at trial related to defendants' conduct. The Department of Correction medical records include notations of injuries to plaintiff's head, neck, and wrists. Dr. Roberta Burns also examined plaintiff for the Department of Correction two days after plaintiff was beaten. Her report included plaintiff's "subjective" complaints as well as Dr. Burn's "objective" conclusions after examining plaintiff. This report and her testimony at trial evidenced the following injuries: (a) "neck right side swollen and bruised;" (b) "swelling of wrist" - "limited range of motion of wrist;" (c) "tender across low back;" (d) "swelling in muscles on right leg, possible bruising;" (e) "L leg - visible front bruise;" (f) "hard tender area behind and above left knee;" and (g) "multiple abrasions and contusions." (D.I. 136; PX 2)

4. It is difficult to reconcile the jury's liability and damages findings. The court, however, is not persuaded that a new trial limited to the issue of damages is consistent with the Third Circuit's discussion in Pryer. Specifically, ordering a new trial limited to damages comes close to directing the jury, as a matter of law, to award compensatory damages under these circumstances, a directive without precedent to this court's knowledge. Therefore, plaintiff's motion for a new trial limited

to damages is denied.¹

Sue L. Robinson
United States District Judge

¹The court does not understand plaintiff to be requesting a new trial on both liability and damages.