

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

SEAN AARON HALL,

Plaintiff,

v.

SHERMAINE ALBERTO
CARLISLE,

Defendant.

CIVIL ACTION
NO. 1:20-cv-03564-WMR

FINAL ORDER AND JUDGMENT

This is a cause of action brought by Plaintiff Sean Aaron Hall against Defendant Shermaine Alberto Carlisle for excessive force and deliberate indifference under 42 U.S.C. § 1983 and for assault and battery under Georgia law. [Doc. 1]. The Court previously entered an Order Granting Default Judgment as to liability and scheduled the case for a hearing on the issues of compensatory and punitive damages. [Doc. 14]. The matter came before the Court for a hearing on damages, and the Court heard testimony from Plaintiff and Defendant and received evidence regarding the attack and the extent of Plaintiff's damages. [Doc. 18]. Upon consideration of the testimony and evidence presented, and pursuant to the

Defendant's default which "admits the plaintiff's well-pleaded allegations of fact,"¹ the Court shall award a monetary judgment in favor of Plaintiff based on the following findings of fact.

1. Admitted Facts in Complaint

By virtue of the default judgment, Defendant Shermaine Alberto Carlisle has admitted to the following operative facts, which are stated in the well-pleaded allegations of the complaint.

a. Parties, Jurisdiction, and Venue

Regarding parties, jurisdiction, and venue, the Court finds that all the parties herein are subject to the personal jurisdiction of this Court and venue is proper in this Court pursuant to 28 U.S.C. §1391(b) and Local Rule 3.1B(3), NDGa., because the event giving rise to this claim occurred in Newton County, Georgia, which is situated within the district and divisional boundaries of the Atlanta Division of the Northern District of Georgia.

¹ Eagle Hosp. Physicians, LLC v. SRG Consulting, Inc., 561 F.3d 1298, 1307 (11th Cir. 2009) ("A 'defendant, by his default, admits the plaintiff's well-pleaded allegations of fact, is concluded on those facts by the judgment, and is barred from contesting on appeal the facts thus established'") (quoting Nishimatsu Const. Co. v. Houston Nat'l Bank, 515 F.2d 1200,1206 (5th Cir. 1975)).

b. Underlying Incident

Regarding the well-pleaded facts in the Complaint [*See* Doc. 1], the Court finds as follows:

On June 13, 2019, two inmates at the Newton County jail entered Plaintiff's jail cell and attacked him while a third inmate held the cell door closed to prevent Plaintiff's escape. The inmates beat Plaintiff savagely, leaving him lying unconscious on the concrete floor. While the attack initially appeared to be a simple inmate-on-inmate incident, the ensuing investigation revealed that Defendant, an employee of the Newton County Sheriff's Office who was working at the jail, knowingly allowed the inmates access to Plaintiff's cell for the express purpose of attacking him.

Defendant facilitated and orchestrated the attack. Immediately before the attack, Defendant spoke at length with the three inmates at the control panel (the desk where the jailer sits). The four men – Defendant and the three inmates – agreed on the plan to violently attack Plaintiff. Once Defendant and the three inmates agreed on the plan, two of the inmates (Demonte Head and Phillip Young) took off their Newton County jail ID's, placed them on the table in front of Defendant, and approached Plaintiff's cell. While inmates Head and Young were approaching

Plaintiff's cell, Defendant released the lock on Plaintiff's cell door, allowing inmates Head and Young to gain access to Plaintiff's cell.

Inmates Head and Young entered Plaintiff's cell and violently attacked him, beating Plaintiff unconscious and leaving him bleeding on the floor. While inmates Head and Young attacked Plaintiff, the third inmate (Raymond Victor) held the cell door closed, preventing Plaintiff's escape.

Defendant's involvement in the attack was revealed when video of the incident was reviewed in the ensuing investigation. The day after the attack, during cell inspections, Defendant's personal cellular phone number was found in inmate Victor's property. After the investigation into the assault, Defendant was arrested and charged with assault and battery for his role in the attack.

Based on these facts, the Court finds that Defendant conspired with the inmates to brutally attack Plaintiff, which caused Plaintiff to suffer serious physical, cognitive, and emotional and psychological injuries. At all times during the events described herein, Defendant was acting under color of law.

2. Findings of Fact From Damages Hearing

a. The Attack

Plaintiff testified at the damages hearing and the Court admitted and viewed surveillance video recordings of the incident. The video footage, which has no

sound, shows a savage attack by two inmates which left Plaintiff on the floor unconscious. Specifically, the Court finds that the videos show the inmates conferring with Defendant prior to the attack, the inmates placing their badges on the desk in front of Defendant before proceeding to Plaintiff's cell, Defendant releasing the lock on Plaintiff's cell door, and the ensuing attack on the Plaintiff that left him unconscious. [*See* Doc. 20].

b. Plaintiff's Injuries

In addition, Plaintiff testified about the attack and about his injuries. Specifically, Plaintiff testified, and the Court finds, the following:

Plaintiff suffered physical pain, cognitive injury, and emotional pain and suffering. Regarding physical pain, Plaintiff suffered (1) a neck injury which he described as being severely painful after the attack, with continued reports of pain a month-and-a-half later; (2) a rib injury which he described as being severely painful causing him trouble sleeping; (3) a lip injury; (4) a tooth that was injured in the attack and broke some time later; and (5) a head injury, which included a laceration to the head and caused him extreme pain at the time.

Regarding the cognitive injury, Plaintiff testified that he lost consciousness, and the video supports that he laid on the floor motionless for approximately one minute and fifty seconds. In addition, Plaintiff described being "blacked out" for

approximately fifteen minutes (he does not recall the events occurring within the fifteen minutes following the attack), he reports suffering a seizure after he regained consciousness, he reports blurred vision and dizziness, and he reports suffering from cognitive issues for a number of days after the attack.

Finally, regarding emotional pain and suffering, Plaintiff testified that he has nightmares from the attack. He described nightmares beginning immediately after the attack and occurring with regular frequency in the days and weeks after the attack. Plaintiff testified that, over time, the nightmares decreased in frequency, occurring approximately once a week. As a result of the incident, Plaintiff had to take sleeping pills that were prescribed by a counselor at Central State Prison. In addition, Plaintiff experienced heightened anxiety after the attack. He described a life in custody in which he would spend a month in an ordinary housing area for inmates (“general population”) and over that month his anxiety over the possibility of another inmate attack would build. Over time, his anxiety would build to the point that he would request segregated housing (“the hole”), where he described being in solitary confinement with severely limited access to shower, phones, etc. The Court makes no specific finding regarding the actual conditions of segregated housing, but it recognizes that Plaintiff’s anxiety was severe enough that it caused him to request segregated housing (solitary confinement).

3. Findings as to Liability

The Court finds that Plaintiff has proven the counts of the complaint and that Defendant is liable for Plaintiff's injuries which were caused by Defendant's conduct. Specifically, the Court finds that:

- Defendant used excessive force against Plaintiff in violation of the Fourth and Fourteenth Amendments of the U.S. Constitution when he orchestrated a violent assault on Plaintiff by conspiring with the inmates to attack Plaintiff and unlocking Plaintiff's cell door to allow the attack to occur;
- Defendant committed assault and battery against Plaintiff in violation of O.C.G.A. §§ 51-1-13 and 51-1-14 when he orchestrated a violent assault on Plaintiff with the inmates and unlocked Plaintiff's cell door to allow the attack to occur; and
- Defendant was subjectively aware of a substantial risk of serious harm to Plaintiff posed by the inmates when Defendant facilitated the violent assault. Despite being subjectively aware of a substantial risk of serious harm to Plaintiff posed by the inmates, Defendant took no action to protect Plaintiff; instead, Defendant's actions demonstrate a callous and conscious indifference to Plaintiff's safety. Defendant's deliberate indifference caused Plaintiff to suffer physical injuries, cognitive pain and suffering, and emotional pain and suffering.

4. Findings as to Damages

a. Compensatory Damages

As noted above, the Court finds that Plaintiff's physical injuries, cognitive pain and suffering, and emotional pain and suffering were the direct and proximate

result of Defendant's use of excessive force, assault and battery, and deliberate indifference. Based on the seriousness of Plaintiff's injuries, pain, and suffering discussed above, the Court finds that Plaintiff should be awarded compensatory damages against Defendant in the amount of **\$150,000**.

b. Punitive Damages

In addition, the Court finds that Defendant acted with malice or reckless indifference to Plaintiff's federally protected rights, meaning that Defendant was motivated by evil intent or motive or engaged in conduct with a callous disregard for whether the conduct violated Plaintiff's federally protected rights. Accordingly, the Court finds that punitive damages should be assessed against Defendant.

In considering a punitive damages award, the Court specifically considers the degree of reprehensibility of Defendant's conduct, which is considered to be the "most important" indicator of the reasonableness of a punitive damages award. See Sepulveda v. Burnside, 432 Fed. Appx. 860, 865 (11th Cir. 2011). There are five factors to consider when determining the degree of reprehensibility: (1) whether the harm caused was physical as opposed to economic; (2) whether the tortious conduct evinced an indifference to or a reckless disregard of the health or safety of others; (3) whether the target of the conduct had financial vulnerability; (4) whether the conduct involved repeated actions or was an isolated incident; and (5) whether the

harm was the result of intentional malice or mere accident. Sepulveda, 432 Fed. Appx. at 865 (quoting State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 419, 123 S.Ct. 1513 (2003)). Given the facts of this case, the Court finds that most, if not all, of the factors weigh in favor of Plaintiff. First, the harm caused was physical as opposed to economic. Second, Defendant acted with indifference to or a reckless disregard of Plaintiff's health and safety. Third, although there was no evidence to indicate whether Plaintiff was financially vulnerable, Plaintiff was certainly vulnerable as an inmate housed in the Newton County jail and he relied on the Sheriff's Department and its employees for his health and safety while in their custody. Fourth, although the attack was an isolated incident, the harm that occurred was significant. Finally, the harm was the result of malice or reckless disregard of Plaintiff's rights. See Sepulveda 432 Fed. Appx. at 865. Therefore, the Court finds that the degree of reprehensibility is more than sufficient to award punitive damages.

In determining the amount to award, the Court considers the ratio of punitive damages to compensatory damages. The Court notes that "[a] punitive damage award may not be "grossly out of proportion to the severity of the offense." Johansen v. Combustion Engineering, Inc., 170 F.3d 1320, 1338 (1999) (citing BMW of North America, Inc. v. Gore, 517 U.S. 559,576 (1999)). Furthermore, the financial circumstances of a tortfeasor may be considered when considering the deterrent

effect of awarding punitive damages. Johansen, 170 F.3d at 1338 (citing TXO Production Corp. v. Alliance Resources Corp., 509 U.S. 443, 462 n. 28 (1993)).

Although the harm to Plaintiff was significant, this case involves an isolated incident, and the Defendant's employment was terminated as a result of his actions. Defendant testified at the hearing that his POST certification has been revoked and that he has been unemployed since the incident. Defendant further testified that he has two minor children and that his spouse is also unemployed. Nevertheless, the Court cannot ignore the egregious nature of his conduct. Taking all of these factors into consideration, the Court finds that Defendant's conduct justifies a punitive damages award with a moderate 3-to-1 ratio of punitive damages to compensatory damages. Defendant was charged with the responsibility of securing and protecting inmates, and he violated that duty when he conspired with other inmates to have Plaintiff brutally attacked. The Court finds that a punitive damages award which is three times the compensatory damages award is appropriate in this case. Thus, the Court awards punitive damages in an amount of **\$450,000**.

5. Attorney's Fees

Lastly, regarding the issue of attorney fees, the Court has reviewed Plaintiff's Motion for Attorneys' Fees [Doc. 22] and finds that fees are appropriate in this case under 42 U.S.C. § 1988.² "It is well-settled that a plaintiff is a prevailing party and thus ordinarily entitled to a fee award of 'some kind' if the plaintiff has succeeded on 'any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit.'" Church of Scientology Flag Serv., Org., Inc. v. City of Clearwater, 2 F.3d 1509, 1513 (11th Cir. 1993) (quoting Hensley, 461 U.S. at 433, 103 S.Ct. at 1939 (footnotes omitted).) A litigant in whose favor judgment is rendered is the prevailing party for purposes of Section 1988. See, e.g., Loos v. Club Paris, LLC, 731 F. Supp. 2d 1324, 1328 (M.D. Fla. 2010) (holding that plaintiff was prevailing party when awarded a default judgment). Because Plaintiff is the prevailing party in this case, the Court awards fees based on the lodestar calculation.

a. Lodestar Analysis – Hours Expended

As the first step in the lodestar determination, the Court must determine whether Plaintiff's attorneys' hours were reasonably expended. With respect to

² The Civil Rights Attorney's Fees Award Act of 1976, codified in 42 U.S.C. § 1988(b) (often referred to as "Section 1988") allows a federal court to award reasonable attorney's fees to a "prevailing party" in certain civil rights cases, ensuring that private citizens can afford to vindicate their civil rights against "those who violate the Nation's fundamental laws." Hensley v. Eckerhart, 461 U.S. 424, 435 (1983).

hours reasonably expended, “[t]he fee applicant bears the burden of establishing entitlement and documenting the appropriate hours and hourly rates.” Norman v. Housing Auth. of City of Montgomery, 836 F.2d 1292, 1303 (1988).

The hours claimed or spent on a case are “[t]he most useful starting point for determining the amount of a reasonable fee.” Hensley, 461 U.S. at 433. Counsel must exercise “billing judgment” in determining the hours reasonably expended on the merits, Hensley, 461 U.S. at 437, and counsel’s certification that the work itemized has in fact been performed is “entitled to considerable weight on the issue of time required....” Perkins v. Mobile Hous. Bd., 847 F.2d 735, 738 (11th Cir. 1988). Indeed, this Circuit has stated that “[s]worn testimony that, in fact, it took the time claimed is evidence of considerable weight on the issue of the time required in the usual case” and if a court considers reducing those hours, “it must appear that the time claimed is obviously and convincingly excessive under the circumstances.” Perkins, 847 F.2d at 738.

Here, counsel’s billing records demonstrate counsel spent 76.5 hours to litigate this case from initial intake, through pre-suit investigation and negotiation, drafting, filing, and serving the complaint, through post-suit investigation and negotiation, default judgment, a damages hearing, and this fee petition. Counsel has articulated the phases of representation in his timesheet [Doc. 22-2] and his

supporting Declaration [Doc. 22-1], and the Court accepts those hours as reasonably expended.

b. Lodestar Analysis – Reasonable Hourly Rate

The Court then moves to a determination of a reasonable hourly rate for the services of Plaintiff's counsel. An attorney's hourly rate is deemed "reasonable" when it fairly reflects the experience, skill and reputation of the attorney performing the work and is consistent with rates billed by other attorneys in the relevant marketplace for similar work. Norman, 836 F.2d at 1300. The Court may rely upon expert affidavits to determine the prevailing market rate. "The weight to be given to opinion evidence . . . will be affected by the detail contained in the testimony on matters such as similarity of skill, reputation, experience, similarity of case and client, and breadth of the sample of which the expert has knowledge." Norman, 836 F.2d at 1299; see also M.H. v. Commr. Ga. Dept. of Community Health, 656 Fed. Appx. 458, 462 (11th Cir. 2016).

Plaintiff's counsel claims an hourly rate of \$500 per hour. In his Declaration, counsel attests that he graduated from Harvard University *cum laude* and Georgia State College of Law *magna cum laude*, that he has practiced since 2008, that he has been certified as class counsel in two civil rights class actions, that he has worked at two well-respected law firms and has served as a public defender where he has tried

many cases, that he has litigated many dozens of civil rights cases in federal court, many of which involve prisoner claims.³ [Doc. 22-1].

Plaintiff's counsel also submitted the declarations of Craig Jones [Doc. 22-3] and Mark Yurachek. [Doc. 22-4]. Both Mr. Jones and Mr. Yurachek state in their respective Declarations that this rate is reasonable and commensurate with Plaintiff's counsel's experience and knowledge of the subject matter. Mr. Jones is a civil rights attorney who specializes in civil rights cases involving prisoners and law enforcement officers; Mr. Yurachek is an appellate attorney who specializes in criminal appellate and habeas work. Mr. Jones attests that he knows Plaintiff's counsel, knows his reputation, is familiar with billing rates of attorneys in the field, and has reviewed hundreds of pages of briefs by Plaintiff's counsel to attest to counsel's qualifications and appropriate rate. Mr. Yurachek attests that he knows

³ See Thompson v. Jackson, No. 1:16-CV-04217, 2018 WL 5993867, at *9 (N.D. Ga. Nov. 15, 2018) (certifying Plaintiff's counsel as lead counsel in a civil rights class action based largely on a review of his performance in that litigation: "Mr. Begnaud has been practicing for more than ten years, worked at a well-respected law firm, served as a public defender where he tried many cases, and (since opening his own firm) has litigated at least thirty civil-rights cases in federal court, many of which involved prisoner claims. Dkt. 31-1. ... The Court has also reviewed counsels' conduct here, including their briefs and arguments at hearings. The Court finds — with no doubt whatsoever — that Plaintiffs' counsel is qualified to litigate this action on behalf of the class").

and has worked with Plaintiff's counsel to a significant degree over the last ten years and believes the hourly rate quoted by Plaintiff's counsel is reasonable.

Based on the Declarations filed by Plaintiff – those of Mr. Begnaud, Mr. Jones, and Mr. Yurachek – the Court finds that \$500 per hour is a reasonable rate for Plaintiff's counsel for contingency fee litigation such as this.

c. Attorney's Fees Award

The Court finds that there is no justification for an upward or downward deviation from the lodestar analysis. The Court therefore awards attorney fees of **\$38,250.00**, reflecting 76.5 hours of work billed at \$500 per hour.

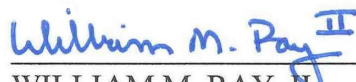
JUDGMENT

For the foregoing reasons, Plaintiff's Motion for Attorney's Fees [Doc. 22] is **GRANTED**, and the Court enters Judgment for Plaintiff in the following amounts:

- Compensatory Damages: **\$150,000.00**
- Punitive Damages: **\$450,000.00**
- Attorney's Fees: **\$38,250.00**

TOTAL AMOUNT: \$638,250.00

IT IS SO ORDERED AND ADJUDGED, this 8th day of November, 2021.



WILLIAM M. RAY, II
UNITED STATES DISTRICT JUDGE