

Use Of Excessive Force: Court Upholds Psych Patient's Lawsuit Against Nurses For PTSD.

The US Circuit Court of Appeals for the First Circuit recently upheld a substantial verdict in favor of a patient who sued a state psychiatric hospital, the unlicensed mental health worker who beat him while trying to restrain him and his psychiatric nurses. The nurses on duty saw what was happening and failed to intervene to prevent the beating.

Constitutional Rights Violation

Federal civil rights laws protect citizens from unconstitutional acts by persons acting under authority of state law. State employees subjecting a detainee to excessive force violate the detainee's constitutional rights.

The patient was being involuntarily detained in a state-operated psychiatric facility pursuant to a court order. His diagnoses were bipolar and schizo-affective disorders and multiple substance abuse. This his most recent hospitalization occurred after he verbalized an intention to kill his father.

Common Law Battery

If the patient had not been in a state facility, however, the result would have been much the same. The suit would have alleged common-law battery rather than violation of constitutional rights.

Escalation of Force

The court went into considerable detail to explain how the nurses responsible for the patient's care improperly allowed the situation to escalate before the assault by a caregiver finally occurred.

The basis for this lawsuit is failure to intervene.

Unlicensed mental health workers used excessive force in restraining the patient. One of them beat the patient in retaliation for his provocative behavior.

The nurses were present and witnessed the escalation of excessive force.

The nurses realistically could have and properly should have stopped the escalation and prevented the use of excessive force.

The nurses had supervisory status over the mental health workers who were abusing the patient.

There was sufficient time for the nurses to have acted and made a difference in what happened.

The patient only suffered superficial injuries. However, his psychiatrist attested he suffered from PTSD.

UNITED STATES COURT OF APPEALS,
FIRST CIRCUIT, 2001.

The patient was unhappy he did not receive a visitor on his birthday. He became increasingly agitated over a two-day period. He enlisted another patient in a scheme to elope from the facility, purchase alcohol from a nearby store and get drunk in the woods behind the hospital.

A state trooper specially assigned to the hospital and an unlicensed mental health worker went out and brought them back in handcuffs. The medical staff decided not to send them back to the unlocked unit. They were taken to a locked unit with a locked quiet room and a room with four-point restraints. The patient in question was to be stripped and placed in the quiet room ostensibly to sober up.

Reading between the lines the court seemed to believe this was done as a disciplinary or punitive measure and it only escalated the situation. The patient became verbally provocative toward the unlicensed mental health workers while they took off the handcuffs, escorted him to the time-out room and attempted to strip him to his underwear, with the nurses watching all the time and not stepping in.

One of the mental health workers finally lost his composure and beat the patient. He inflicted only minor physical injuries but the court ruled the patient was still entitled to substantial compensation for post-traumatic stress disorder. **Davis v. Rennie**, 264 F. 3d 86 (1st Cir., 2001).

LEGAL EAGLE EYE NEWSLETTER

For the Nursing Profession

ISSN 1085-4924

© 2020 Legal Eagle Eye Newsletter

E. Kenneth Snyder, BSN, JD

Editor/Publisher

PO Box 4592

Seattle, WA 98194-0592

(206) 718-0861

kensnyder@nursinglaw.com

www.nursinglaw.com

LEGAL EAGLE EYE NEWSLETTER PO BOX 4592 SEATTLE WA 98194-0592

(206) 718-0861

Order online at <http://www.nursinglaw.com/subscribe.htm>

Print \$155/year _____

Email \$120/year _____

Check enclosed _____

Bill me _____

Credit/Debit card _____

Visa/MC/AmEx/Disc No. _____

Signature _____

Expiration Date _____

CVV Code _____

Billing ZIP Code _____

Name _____

Organization _____

Address _____

City/State/Zip _____

Email for Email Edition* _____

*Print subscribers: provide your email and receive Email Edition at no extra charge.