



**COURT AWARDS DAMAGES TO EX PRISONER FOR ASSAULT
BY PRISON STAFF IN THE SEGREGATION UNIT OF HMP PARKHURST**

A County Court judge has rejected the evidence of prison staff and awarded damages to a former prisoner who was assaulted by staff in Parkhurst Prison in June 2001.

On 20 June 2001, while located in the segregation unit of HMP Parkhurst, Paul Smith was assaulted by several prison officers, sustaining multiple injuries including a fractured thumb, contused kidneys, and over 19 abrasions and contusions to his head and body.

After hearing evidence over seven days, Recorder Linda Sullivan QC, sitting at Portsmouth County Court, dismissed the evidence of four key prison officer witnesses as inaccurate and unreliable and ruled that Mr Smith received the injuries described as a result of prison officers assaulting him on the morning of 20 June 2001 when he was unable to defend himself and completely outnumbered.

In her judgment, handed down today, whilst not disbelieving Mr Smith, Recorder Sullivan was unable to decide on the balance of probabilities that prison officers started a fire in Mr Smith's cell at lunchtime the same day as the assault, 20 June 2001, and she ruled that officers' conduct later that evening did not amount to a third assault.

Although a Prison Service inquiry was commissioned in July 2001, it was suspended pending an investigation by Hampshire Constabulary. After being advised by the lawyer acting for the prison officers that they would not answer questions in interview, the police did not bother to interview them. Then, the internal investigation never resumed after the police shelved their inquiry.

Mr Smith initiated civil proceedings to bring the officers to account, and today his struggle for justice has been vindicated.

Recorder Sullivan found each of the key prison officers' evidence inconsistent in many respects, both between the witnesses, and in their own versions of events. Analysing the accuracy of the prison officers' accounts, she found that patterns emerged between officers, including between those who were still serving, and those that weren't. She also dismissed the witness statements produced for the trial by the Treasury Solicitor which had almost identical wording over several key paragraphs, and evidence which contradicted earlier (and later) accounts given by the key witnesses:-

"Mr Forman produced these statements by using the "cut and paste" facility on his word processor. As a result it is difficult to rely on the detail of those statements as not all the witnesses have amended the typewritten versions. In the event I do not regard the evidence of PO Wilcox, Mr Walls, Mr Ross and Mr Entwhistle as being reliable."

She also found the contemporary prison records unreliable:-

"In my judgment there was a culture at the time of inaccuracy in producing reports following incidents such as those which involved the Claimant. I do not consider it appropriate to place much, if any, reliance on them."

During the proceedings, the court ordered the disclosure of the key prison officers' disciplinary records to Mr Smith, which revealed that one prison officer witness had initiated a grievance that another witness (who his superior officer) had advised him to dishonestly claim that he received a knee injury whilst restraining a prisoner at work when he had not done so.

On hearing the findings of Recorder Sullivan, Mr Smith said:-

“I thank the Legal Services Commission and my legal team for standing by me so that I could have my day in court. I was aware from the beginning of the difficulties in prisoners pursuing claims against prison officers, so to have those who assaulted me brought to Court to account for themselves and for me to prove that they were not telling the truth means a great deal to me, and I hope will act as a deterrent to other prison staff”.

Kate Maynard, solicitor for Mr Smith said:-

“Prison officers who assault “troublesome” prisoners often get away with it because there is a culture of impunity in prisons.

In this case,

- a member of the Board of Visitors¹ to whom Mr Smith complained immediately after the assault instantly dismissed his complaint and failed to take any action,
- medical staff and a Governor were reported by the witnesses and records to have been present at the time when the main assault took place, yet they took no action and still have not been brought to account,
- the police shelved their investigation after the prison officers said that they would not answer questions in interview, and
- an internal inquiry was started but never concluded.

As is clear from the judgment, two key factors enabled Mr Smith to prove his case.

First, he was moved to another prison shortly after the assault where, partly to cover their backs, the receiving prison recorded all his injuries on arrival, and took him to an outside hospital. The burden then shifted on the State to account for those injuries.

Second, the key officers that were involved in the assault on Mr Smith were unable to sustain their concocted story when forced to account to a Court for what happened.”

Despite declaring at an earlier hearing that they ‘won’t pay a penny’ to Mr Smith, the Ministry of Justice has been ordered to pay substantial damages to him, plus interest at an enhanced rate and his legal costs. The damages include:-

- aggravated damages for the arbitrary punishment inflicted on him without redress, which impacted adversely on his perception of prison officers for the rest of his prison sentence; and
- punitive (exemplary) damages for the culture of bad record keeping at the prison and the failure to reinstate the internal inquiry. Officers were not asked to account for themselves until in 2008 when they had to produce witness statements for trial. This prevented any remedial action from taking place to prevent re-occurrence, and prevented officers being brought to task.

For more information please contact:

Kate Maynard, Solicitor, phone: 00 44 (0)7812 974613

Hickman & Rose solicitors Website: <http://www.hickmanandrose.co.uk>

PLEASE SEE THE ATTACHED JUDGMENT FOR FURTHER DETAILS.

¹ The Board of Visitors is now called the Independent Monitoring Board. The role of members is to monitor the day-to-day life in their local prison to ensure that proper standards of care and decency are maintained.