

**IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN
AND FOR LEON COUNTY, FLORIDA**

GENERAL JURISDICTION

JEREMY BARRETT,)	
)	
Plaintiff,)	
)	
vs.)	Case No.
)	
FLORIDA DEPARTMENT)	
OF CORRECTIONS,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff, Jeremy Barrett, sues Defendant, Florida Department of Corrections (“FDOC”), and as good grounds alleges as follows:

Preliminary Statement

1. This is an action for negligence. Jeremy Barrett was brutally attacked within the confines of his cell on November 20, 2011, at Columbia Correctional Institution while in the custody and control of the FDOC, by another inmate who was known by employees of the Defendant to be severely mentally ill and to have a violent history of being a danger to other inmates. Mr. Barrett sustained severe

injuries including the complete loss of his left eye and partial amputation of his right thumb.

2. Plaintiff seeks damages arising from Defendant's negligence, and failure to protect him from harm in total disregard for the health and well-being of Plaintiff Jeremy Barrett. Plaintiff seeks compensatory damages.

Jurisdiction and Venue

3. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs and attorneys' fees, and declaratory relief.

4. This Court has jurisdiction over the state law claims raised, pursuant to Article V, section 5(b) of the Florida Constitution.

5. Plaintiff has complied with all applicable pre-suit notice provisions of Section 768.28, Florida Statutes.

6. Venue is proper in this Circuit as Defendant FDOC is headquartered in Leon County, Florida.

Parties

7. Plaintiff Jeremy Barrett was at all times material herein an inmate of the FDOC, housed at Columbia Correctional Institution, located in Columbia County, Florida. At the time of the attack, Mr. Barrett was thirty-two (32) years old.

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8. Defendant FDOC is an Agency of the State of Florida, subject to suit for negligence pursuant to Section 768.28 of the Florida Statutes. The FDOC had a responsibility to ensure that all inmates were properly and safely classified and housed. The FDOC is charged by law with the responsibility to maintain all of its facilities, including Columbia Correctional Institution, in a safe and secure manner which complies with the applicable rules and regulations of the FDOC and proper correctional practices.

9. At all relevant times, two unknown corrections officers were duly appointed, qualified, and acting officers, employees, and/or agents of the FDOC, employed by the FDOC, and acting within the course or scope of their employment and/or agency.

Statement of Facts

10. Columbia Correctional Institution is an adult male prison facility housing inmates classified as community, minimum, medium, and close custody. The facility is located at 216 S.E. Corrections Way in Lake City, FL.

Manuel Figuero's Known Violent Past and Unstable Mental Condition

11. Manuel Figuero was an inmate at Columbia Correctional Institution. At the time of this incident, he was serving a 5½ year sentence for battery on a law enforcement officer and drug trafficking. Mr. Figuero was a close custody in-
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mate—the highest level of custody assigned by the FDOC. Mr. Figuero is approximately 5' 9" and 169 lbs.

12. It was widely known that Mr. Figuero was severely unstable mentally. FDOC was well aware that Mr. Figuero was bi-polar, hearing voices, and prescribed psychotropic medication which he was not taking. Mr. Figuero went to mental health, told them he was having these mental issues and asked to be placed in a cell by himself so he would not harm another inmate or staff. Nonetheless, employees and agents of the Defendant FDOC improperly housed Mr. Figuero in living environments where he had access to and could do serious physical harm to other inmates with no provocation whatsoever.

13. On November 15, 2011, Mr. Figuero brutally assaulted fellow inmate Patrick Moul, attacking him with a Master combination lock in a sock. Inmate witnesses observed Figuero attack inmate Moul by hitting him approximately eight times in the head. Mr. Moul sustained serious injuries and Mr. Figuero was charged and later found guilty of battery by a detainee in violation of Fla. Stat. § 784.082.

14. Inmate Figuero claimed that Mr. Moul had been masturbating while watching Mr. Figuero and that this motivated his assault. None of the witnesses, however, could substantiate this claim or provide any evidence for it. Additional-
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ly, when Mr. Figuero was detained following his attack on inmate Moulton, corrections officers reported him shouting, “He was trying to shoot me! He was trying to shoot me!” There was no indication that inmate Moulton or anyone was trying to shoot or assault Mr. Figuero. Mr. Figuero was evaluated by FDOC’s mental health staff after he assaulted Mr. Moulton. FDOC mental health staff knew he was bi-polar and hearing voices, and a danger to other inmates. Nonetheless, instead of putting Mr. Figuero in an environment where he could not harm other inmates, Defendant FDOC continued to place Mr. Figuero in housing environments where he would inevitably assault other inmates just as he had done Mr. Moulton.

15. Mr. Figuero was placed in disciplinary confinement for this assault.

The Brutal Assault on Jeremy Barrett

16. Plaintiff Jeremy Barrett was a minimum custody inmate and had little disciplinary history. He was serving a three-year sentence for a first-time nonviolent drug offense. He was one month away from being released. In late November, 2011, Mr. Barrett was placed in confinement for taking a potato from the kitchen.

17. On or about November 17, 2011, FDOC decided to move Figuero in with Plaintiff Barrett. Plaintiff Barrett was 5’10” and 139 lbs. at the time of the assault.

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18. When a correctional officer employed by the Defendant was escorting Mr. Figuero to the cell, Mr. Figuero said, “Don’t put me in there with him, I’m going to kill him.” Plaintiff also informed this same correctional officer employed by the Defendant that Mr. Figuero was dangerous and that he should not be housed with the Plaintiff. Nonetheless the correctional officer employed by the Defendant ignored these warnings and put Mr. Figuero in the same cell with Plaintiff anyway. This correctional officer did not report to anyone what Figuero or Barrett told him.

19. On November 20, 2011, Mr. Figuero attacked Plaintiff while he was using the cell bathroom. Mr. Figuero placed Plaintiff in a choke hold, bit off part of Plaintiff’s right thumb, and tore out his left eyeball. Plaintiff screamed under the door for help, but collapsed under the choke hold and passed out.

20. At approximately 1:45 pm Sergeant Christopher Minnich, H dormitory supervisor, heard banging on the cell door that housed Plaintiff and Figuero. Upon his arrival he saw inmate Figuero bending over the Plaintiff with his hands around his neck in a choke hold. Sgt. Minnich ordered Figuero to release Plaintiff to no avail. Sgt. Minnich deployed a gas canister through the food tray flap, which struck Mr. Figuero in the head and upper torso. Inmate Figuero subsequently complied with Sgt. Minnich’s orders.

21. Figuero's attack on the Plaintiff resulted in several severe and immediate injuries including: the protrusion of his still intact left eyeball from its socket, abrasions on his anterior neck, a missing right thumbnail, and puncture wounds on his right thumb.

22. Plaintiff was transported from Columbia Corrections Institution to Jacksonville Memorial Hospital. On November 21, 2011 at approximately 12:19 a.m., Plaintiff arrived at Shands Hospital in Gainesville and underwent eye surgery.

23. As a result of Defendant's acts and omissions, Plaintiff's left eye was completely removed and his thumb partially amputated, and he sustained physical pain as well as continued emotional pain and suffering.

24. Defendant knew that Figuero had attacked inmate Moulton just a few days prior to his confinement with Plaintiff. Defendants knew that Figuero had a higher custody classification than Plaintiff, was severely mentally ill, and a danger to other inmates. Defendant failed to ensure Plaintiff's security, safety, and to prevent inmate violence and harm to him.

Count 1: Negligence

25. Plaintiff repeats and realleges each preceding paragraph as if fully set forth herein.

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26. This Count 1 is against Defendant, FDOC for the negligence of its employees.

27. Defendant FDOC acknowledged that its agents and employees were authorized to act for Defendant FDOC when they committed the negligent acts alleged herein. Defendant FDOC's agents and employees accepted the undertaking of acting on behalf of Defendant FDOC when they committed the negligent acts alleged herein. Defendant FDOC had control over its agents and employees when they committed the negligent acts alleged herein.

28. The negligent acts of Defendant FDOC' agents and employees, were done while acting within the course and scope of their employ and/or agency with Defendant FDOC. Thus, Defendant FDOC is vicariously liable for the actions of its agents and employees when they committed the negligent acts alleged herein.

29. Defendant FDOC owed Plaintiff a non-delegable duty to use reasonable care to ensure that Plaintiff was properly housed for his safety and well-being.

30. Defendant FDOC failed to perform its duty to use reasonable care to ensure that Plaintiff was properly housed for his safety and well-being, thereby abandoning Plaintiff.

31. As a direct and proximate result of Defendant FDOC's employees' and agents' failure to perform their duty to use reasonable care to ensure Plaintiff's safety and well-being, Plaintiff suffered serious and permanent injuries.

WHEREFORE, Plaintiff seeks all compensatory damages from Defendant FDOC to which Plaintiff is entitled, and any further relief this Court deems just and proper.

JURY DEMAND

Plaintiff demands trial by jury on all issues that can be heard by a jury.

Respectfully submitted,

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