

FAIREY, PARISE & MILLS, P.A.
ATTORNEY AT LAW

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December 20, 2000

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Carol Andrews
Fax Number 615-242-6329

Dear Carol:

Please find attached the verdict form in phase I of the trial. In phase II the jury returned \$3M under both the state claims and the federal claims (we only get one \$3M though). Note the finding in question #7, it is the exception to the *de minimis* injury requirement. In effect the jury is asked whether the force used is torture ("force used was of the sort repugnant to the conscience of mankind...").

The jury instruction defining the federal claim for constitutional violations read:

In order to prove that the force used was excessive, the plaintiff must prove that the defendant applied force "maliciously and sadistically" for the very purpose of causing harm and not in a good faith effort to maintain order or restore discipline.

To act "maliciously" means to intentionally do a wrongful act without just cause or excuse, with the intent to inflict injury or under circumstances that show an evil intent. In deciding this whether this element has been proved, I remind you that you must give correctional officials wide ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain internal security in the correctional facility.

I hope this information is of assistance to you. Thank you for your help in the Whiteville matter and I look forward to hearing from you further on that.

Sincerely,

FAIREY, PARISE & MILLS, P.A.
W. Gaston Fairey

WGF
attachments (Verdict Form - Phase I *William P. v. CCA*)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

**William P., by and through his Guardian ad Litem,
Lesly A. Bowers,**

Plaintiff,

v.

Corrections Corporation of America

Defendant.

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C/A No.: 3:98-290-17

VERDICT

PHASE I

1. Has plaintiff proven, by a preponderance of the evidence, that acts of the defendant's employees constituted one or more of the following:

Assault	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
Battery	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
Intentional Infliction of Emotional Distress	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No

2. Has the plaintiff proven, by a preponderance of the evidence, that actions of the defendant's employees violated the plaintiff's constitutional rights.

Yes **No**

3. If you answered yes as to the constitutional violation addressed in question two above, then has the plaintiff proven, by a preponderance of the evidence, that the actions taken by employees of Corrections Corporation of America were made pursuant to an official policy and/or custom of Corrections Corporation of America in the operation of its Columbia Training Center facility.

Policy:	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
Custom:	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No

4. If you answered yes to the state law claims in question one above or the constitutional claim in question two above, then has the plaintiff proven, by a preponderance of the evidence, that as a direct and proximate result of the defendant's wrongful conduct, he sustained one, or both, of the following types of injury:

Physical Injury	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
Mental or Emotional Injury	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No

5. If you answered yes to the state law claims in question one above or the constitutional claim in question two above, then has the plaintiff proven that his injury was more than de minimis (meaning has he proven more than a trivial or trifling injury)?

Yes **No**

6. If you answered yes to the state law claims in question one above or the constitutional claim in question two above, then has plaintiff proven extraordinary circumstances that is, that the force used was of a sort repugnant to the conscience of mankind or the pain itself was such that it can properly be said to constitute to more than a de minimis injury?

Yes **No**

7. If you answered yes as to any portion of questions one and two, then what amount has plaintiff proven, by a preponderance of evidence, to be his actual or compensatory damages for all claims:

One Hundred Twenty Five Thousand Dollars (\$125,000.00) dollars.

8. Answer this question only if you found for the plaintiff on both state law and constitutional claims:

Would the amount of damages, you awarded have been different if you had found for the plaintiff only as on the state law claim[s]?

Yes **No**

If you answered No then you need not go any further with this question.

If you answered Yes, then what amount of damages was the plaintiff entitled to on his state law claims without consideration of the constitutional claims:

_____ (\$ _____) dollars.

9. If you answered yes to any portion of question one (state law claims), has the plaintiff proven by clear and convincing evidence, that the conduct of the defendant's employees was willful, wanton, or reckless so as to support an award of punitive damages against the defendant on the *state law* claims?

Yes No

10. If you answered yes as to question two (federal constitutional claims) has plaintiff proven, by a preponderance of the evidence, that the acts of the defendant were done maliciously, with evil motive or intent, or with a reckless or callous indifference to the rights *of the* plaintiff so as to support an award of punitive damages *on the federal law* claim.

Yes No

Foreperson

December 14, 2000
Columbia, South Carolina