

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
PIKEVILLE DIVISION

ACTION NO. 82-329

GEORGE HOPKINS

PLAINTIFF

VS.

MORRIS COON STRATTON, ET AL

DEFENDANTS

MEMORANDUM

* * * * *

This cause is pending on following:

(1) Motion of Defendant Stratton for contempt proceedings against Plaintiff on grounds of alleged intimidation and harassment of a prospective witness, Jimmy Ramey, for Defendant in effort to secure an affidavit or evidence from this witness in support of Plaintiff's claim.

(2) Motion for Summary judgment in behalf of Stratton "on the grounds that there is no genuine issue as to any material facts and the Defendant is entitled to a judgment as a matter of law."

Since the Defendant has alleged threats and harassment on part of Plaintiff toward a person who will be a witness in trial of this case, and Defendant, in his response has denied such acts, an evidentiary hearing will be required on this motion.

In his complaint, the Plaintiff seeks an award for damages for personal injuries based on both Sec. 1983 of Civil Rights Act and for an assault claim under state law with this Court having pendent jurisdiction of the state claim in that the alleged civil rights and assault claims arise out of the same set of facts.

In his complaint, the Plaintiff alleged that the jailer, Stratton, is liable for failure to investigate allegations of misconduct against co-defendant, Mickey Fronto, deputy jailer; and also that Stratton was grossly negligent for failure to supervise and discipline Fronto.

In his response in opposition to motion for Summary Judgment, Plaintiff Hopkins does not discuss or assert liability on basis of allegations in complaint. He confines his argument to vic^orious liability, relying in part on KRS 71.060 which provides:

" * * * *. (T)he jailer shall be liable on the official bond for the conduct of his deputies. * * * ."

The Plaintiff concedes that Stratton did not personally participate in the alleged acts depriving Plaintiff of his constitutional rights. The Plaintiff also states in his response that Plaintiff at this time does not have a witness who will state Stratton had knowledge of alleged propensity

of Fronto to commit such acts upon the jail inmates. Nevertheless he argues that Stratton, by virtue of KRS 70.060 is liable on his official bond. The Plaintiff contends that Stratton, through his knowledge and policy or lack of policy, and improper supervision of the deputy jailers in reference to use of unnecessary force toward inmates, has made himself personally liable for the actions of his deputies.

An examination of the depositions of parties discloses diametrically opposed ^{Versions} versions of the alleged events upon which the Plaintiff bases his claim. This is a classic case of factual issues for the jury as between Plaintiff and Fronto.

Generally a principal is not responsible for the torts of his agent under the Respondent ^{a SUPERIOR} supervisor rule. While, no case has been found discussing KRS 70.060 in its applicability on issue of whether the jailer is responsible for acts of his deputy under the instant factual situation and jailer was not personally involved, there is an analogous situation concerning the Sheriff and his deputies. KRS 70.040 states that "the Sheriff shall be liable for the acts or omissions of his deputies."

The then Court of Appeals, now Supreme Court of Kentucky, in case of Lawson V. Bennett, ^{Ky} 471 SW 2d 726 (1971) in applying this statute held that a Summary judgment for Sheriff was error and ^{reversed} rendered for trial in action for damages on claims

for assault and death action where a deputy killed person and wounded another, and the Sheriff was not present nor a participant, saying:

"If the act from which the injury resulted was an official act * * * the Sheriff is answerable, but the Sheriff is not responsible for a personal act of his deputy.* * Where, however, the willful wrong of the agent is impelled by motives wholly personal to himself, the act is committed outside the scope of his authority and the principal is not liable for the tort. * * * *

"* * * * the officer has the duty not to use unnecessary force in making the arrest. * * * the person named in the warrant has his reciprocal duty to peacefully submit to arrest. * * * If the person named in the warrant offers force against the officer, the officer has not only the authority but the duty to complete the arrest. * * * the officer maybe held responsible in damages to the one he injures if he uses excessive force." 471 SW 2d 427-428.

In West V. Nantz, Admin., ^{KY} 101 SW 2d 673 (1937) the then Court of Appeals discussed the presumptions that officers acted with caution and good faith, until overcome by proof and duties of officer not to exceed force necessary, and which it directed that judgment should be entered for Sheriff not present, nor committed any of the acts complained of, if his deputy exceeded his rights in discharging his duties, the Sheriff "would be responsible therefor personally, as well as on his official bond." 101 SW 2d 677.

The United States Supreme Court, in case of Monell v. New York City Department of Social Services, 436 U. S. 658 (1978), held that local governing bodies, and officials sued in their official capacities are persons under sec. 1983 and liable for act inflicting injuries by its agents or employees, saying:

"....(w)hen execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicting the injury that the government as an entity is responsible.....(436 U. S. 694).

".....,(T)he language of sec. 1983 did not intend municipalities (and its officials) to be held liable unless action pursuant to official municipal policy of some nature caused a constitutional tort. we conclude that a municipality (or its officials) cannot be held liable solely because it employs a tort feasor-or in other words, a municipality cannot be held liable under sec. 1983 on the respondeat superior theory."(436 U. S. 691) (paranthesis added).

Relying upon the Monell case, supra, the fifth circuit joined the majority of the Federal Circuits and in doing so, overruled its previous position that vicarious liability could be imposed under that statute where state law provided for the imposition of such liability. Baskin v. Parker, 602 F₂ 1205,(1979).

In an Annotation of Vicarious Liability of a Superior, 51 ALR Fed 285, the author, after noting that Monell, supra required a "causative factor" and Rizzo v. Goode, 423 U. S. 362, required an "affirmative link" between officials and acts, complained of, observed that the Supreme Court:

"has yet to rule specifically on a case involving an effort to impose vicarious liability for damages on an individual public official under 42 USCS Sec. 1983." 51 ALR Fed 289

The Author further noted that the concept of vicarious liability has for most part been unfavorably received by Federal Courts; that the General Rule rejects such concepts of vicarious liability; that while not precisely adopting the concept that state law imposing vicarious liability of a superior official for act of his subordinate would serve to impose liability under civil rights violation, "the Sixth Circuit has made a number of statements which appear consistent with that view." 51 ALR Fed. 305.

The Plaintiff is relying on the case of McDaniel v. Carrol, 457 F₂ 968 (CA6 1972) in support of his argument that KRS 70.060 imposes vicarious liability on Stratton for actions of his deputy, Fronto, under the Civil Rights Act. That/^{case}held that punitive damages could be assessed in a Sec. 1983 action upon the sheriff for his deputy's violation of the Act when the sheriff did not participate in nor authorized the act of the deputy in view of Tennessee Law that imposed liability of the sheriff and his surety for torts of the deputy in the performance of his official duties.

However, in the case of Dunn v. State of Tenn. 697 F₂ 121 (CA6 1982) the court held that in the absence of the allegation of connection between a sheriff and misconduct of his deputy, that the sheriff was not liable in a sec. 1983 action for such conduct of his deputy, saying:

"The Supreme Court has held (in Rizzo, supra) that a 1983 action cannot lie against a police supervisor for failure to prevent police misconduct absent a showing of direct responsibility for that improper action.....What is required is a casual connection

between the misconduct complained of and the official sued. (697 F₂ 128).

While the plaintiff has alleged, in addition to liability based on KRS 70.60, that Stratton knew or should have known that Fronto had been involved in previous action of alleged abuse of inmates and that Stratton also, with gross negligence failed to properly supervise and discipline Fronto, he conceded that he has no evidence that discloses Stratton was aware of a propensity on part of Fronto to abuse the inmates.

In the absence of such evidence, and it being further conceded by plaintiff that Stratton was not present and did not authorize the alleged acts of Fronto, it appears that there is no factual issue to so much of the plaintiff's claim under the 1983 act and Stratton is entitled to a summary judgment limited solely to any claim based on alleged violation of a constitutional right of the plaintiff, particularly as to any asserted vicarious liability.

The plaintiff also asserts a claim for damages allegedly resulting from same alleged acts of assault by Fronto based on a tort claim under state law and invokes the pendent jurisdiction of this court. Under the principles discussed in Lawson v. Bennett, supra and West v. Nantz, supra, with application of KRS 70.060, there appears that there may be an issue of liability effecting Stratton on state claim. To the extent that Stratton in his capacity as jailer, and/or his surety maybe liable, the motion for summary judgment should be overruled.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
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Judge's copy
FILED NOV 30 1983

GEORGE HOPKINS,

PLAINTIFF,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 1

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: DEFINITION OF CIVIL RIGHTS ACT

This lawsuit is brought under the Civil Rights Act,
a federal law passed by the Congress of the United States, which
states as follows:

Every person who, under color of any statute,
ordinance, regulation, custom, or usage, of any
State or Territory or the District of Columbia,
subjects, or causes to be subjected, any citizen
of the United States or other person within the
jurisdiction thereof to the deprivation of any
rights, privileges, or immunities secured by the
Constitution and laws, shall be liable to the
party injured in an action at law, suit in
equity, or other proper proceedings for redress.

AUTHORITY: 42 USC § 1983.

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 2

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: "UNDER COLOR OF STATE LAW" DEFINED

A person acts "under color of" state law if he is possessed of power to act by virtue of state law, and his misusage of power is made possible only because the wrongdoer is clothed with the authority of state law.

Thus, if you find that there was wrongdoing on the part of one or more of the defendants which made possible by the fact that they were officials or officers by virtue of the laws of the state of Kentucky, you will find that such action was taken "under color state law".

AUTHORITY: Monroe v. Pape 365 U.S. 167 at 184, 81 S. Ct. 473 at 482 (1961).

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 3

MICKEY FRONTO, JR., ET AL.,

DEFENDANTS.

TOPIC: RIGHTS OF "PRE-TRIAL DETAINEE"

A person who has been arrested and put in jail, but who has not been tried and convicted is known as a "pretrial detainee". The reasonable pretrial detainee is imprisoned is to hold him until his presence at trial can be assured, usually through the posting of bail. The U.S. Constitution requires that a pre-trial detainee not be punished without first being convicted of an offense. However, some conditions and restrictions can be imposed upon pre-trial detainees so long as they are reasonably related to a legitimate non-punitive objective, such as maintaining safety and security within the jail.

AUTHORITY: Bell v. Wolfish, 441 U.S. 520, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979).

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 4

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: EXPLANATION OF CONSTITUTIONAL RIGHTS

The plaintiff has alleged that the acts and omissions of one or more of the defendants violated certain of his constitutional rights guaranteed by the constitution of the United States. You are instructed that an inmate does not lose his or her constitutional rights upon being imprisoned. The prisoners retain all constitutional rights not inconsistent with the security and rehabilitative goals of confinement.

AUTHORITY: Pell v. Procunier R, 417 U.S. 817, 94 S. Ct. 2800,
41 L. Ed. 2d 495 (1974).

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 5

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: EIGHTH AMENDMENT

An incarcerated person, whether or not he has been convicted of a crime has the right to be free from the imposition of "cruel and unusual punishment". The phrase "cruel and unusual punishment" means not only physically barbarous punishments, but includes "broad and idealistic concepts of dignity, civilized standards, humanity and decency." Penalties that are grossly disproportionate to the offense are forbidden.

If you decide from the evidence that one or more of the defendants have violated the Eighth Amendment to the United States Constitution in his treatment of the plaintiff, then you will find against that defendant or defendants and for the plaintiff on this issue.

Authority: Estelle v. Gamble, 429 U.S. 97, 97 S. Ct. 285, 60 L. Ed. 2d 251; Hutto v. Finney, 437 U.S. 678, 98 S. Ct. 2565, 47 L. Ed. 2d 522 (1978); Smith v. Sullivan, 611 F. 2d 1039 (5th cir., 1980); Gates v. Collier, 501 F. 2d 1291 (5th cir., 1974).

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 6

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: RIGHT TO MEDICAL CARE

Deliberate indifference to an inmate's serious medical needs is a violation of his or her constitutional rights, whether evidenced by the delay or denial of needed medical care or by intentionally interfering with the treatment once it has been prescribed. In determining whether the failure to provide for the plaintiff's medical care has violated his constitutional rights, you should consider all the circumstances, including the extent of injury or illness, the realistic possibilities of treatment and the possible consequences to his health of failing to provide immediate medical attention.

If you find from the evidence that one or more of the defendants intentionally or through deliberate indifference, failed to provide for a serious medical need of the plaintiff, then you will find against that defendant or defendants and for the plaintiff on that issue.

AUTHORITY: Estelle v. Gamble, supra.; Westlake v. Lucas, 537 F. 2d 857 (6th Cir., (1976)).

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 7

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: ASSAULT AS VIOLATION OF CONSTITUTIONAL RIGHTS

It is a deprivation of a person's constitutional rights to be assaulted. An assault is defined as "any unlawful attempt or offer with force or violence, to do physical injury to another, under such circumstances as to create a well-founded fear of imminent peril, coupled with the present ability to carry out such an attempt. An actual beating does not have to result for there to be an assault.

If you find from the evidence that one or more of the defendants assaulted the plaintiff, then you find against that defendant or defendants and for the plaintiff on that issue.

AUTHORITY: Herreras v. Valentine, 653 F. 2d 1220 (8th cir. 1981); U.S. v. Georvassilis, 498 F. 2d 883 (6th cir., 1974); May v. Commonwealth, 285 S. W. 2d 160 (Ky., 1956).

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 8

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: OFFICIAL AND INDIVIDUAL CAPACITIES

You are instructed that the defendants in this action have been sued in what is termed their "official" and "individual" capacities. The distinction is that when a person is found guilty of wrongdoing in his official capacity, then the judgment of damages is awarded against the office he holds and his official bond, rather than from the individual himself. A judgment against a person in his "individual" capacity must come out of his own pocket.

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 9

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: LIABILITY IN OFFICIAL CAPACITY

You are instructed that the defendants are liable in their official capacities for violations of the plaintiff's constitutional rights if they, while acting under color of state law, subjected or caused the plaintiff to be subjected to the deprivation of any of his rights, privileges or immunities secured by the constitution in laws of the United States.

If you find from the evidence that one or more of the defendants has acted as aforesaid, then you shall find against that defendant or defendants and for the plaintiff on this issue.

AUTHORITY: Wood v. Strickland, 420 U.S. 308, 95 S. Ct. 992, 43 L. Ed. 2d, 214 (1975).

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GEORGE HOPKINS,

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V.

PLAINTIFF'S REQUESTED INSTRUCTION NO. 10

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: LIABILITY IN INDIVIDUAL CAPACITY

You are instructed that the defendants' Deputy Jailor, Mickey Fronto, Jr., and Deputy Sheriffs, Erse Justice and Ronnie Williams, have been sued in their individual capacity. In order to be liable as individuals for violations of the plaintiff's constitutional rights, you must find that their actions toward the plaintiff were not taken in good faith and upon reasonable grounds in light of all circumstances. You will find that actions were not in good faith if they were done with malice, or if the individual defendant knew or reasonably should have known that the actions he was taking would violate clearly-recognized constitutional rights.

AUTHORITY: Wood v. Strickland, supra.

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 11

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: VICARIOUS LIABILITY OF JAILOR

You are instructed that the jailor, Morris "Coon" Stratton is liable in his official capacity for the conduct of his deputy jailor, Mickey Fronto, Jr., even though he did not personally participate in the misconduct of his deputy. Therefore, if you find that the defendant, Mickey Fronto, Jr. violated the constitutional rights of the plaintiff, then you are instructed to find that the defendant, Morris "Coon" Stratton is likewise liable, in his official capacity.

AUTHORITY: KRS 71.060; McDaniel v. Carroll, 475 F. 2d 968 (6th cir., 1972); Tuley v. Hayd, 482 F. 2d 590 (5th cir. 1973); Hesselgesser v. Reilly, 440 F. 2d 901 (9th cir. 1971).

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 12

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: GOOD FAITH DEFENSE

You are instructed that the defendants are not liable in their individual capacities for actions taken in good faith and upon reasonable grounds in light of all circumstances. If you find that constitutional rights of the plaintiff were violated by one or more of the defendants, the defendant so violating has a burden to convince you by a preponderance of the evidence presented that he acted in good faith, or else you will find against him and for the plaintiff on this issue.

AUTHORITY: Dennis v. Sparks, 101 S. Ct. 183 (1980); and Gomez v. Toledo, 100 S. Ct. 1920 (1980).

UNITED STATES DISTRICT COURT
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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 13

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: CAUSATION

You are instructed that in order to justify an award of damages against any of the defendants, you must find that the conduct of the defendant against whom you place liability was a substantial factor in subjecting or causing the plaintiff to be subjected to deprivation of constitutional rights as heretofore defined by the Court. Conduct is said to be a substantial factor in causing an event if the event would not have occurred, but for that conduct.

AUTHORITY:

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
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GEORGE HOPKINS,

PLAINTIFF,

V. PLAINTIFF'S REQUESTED INSTRUCTION NO. 14

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: COMPENSATORY DAMAGES

You are instructed that if you find for the plaintiff against one or more of the defendants, you will determine from the evidence an award to him a sum or sums of money that will fairly compensate him for such of the damage as you believe he sustained by reason of the events which transpired in this case. Such damages should include sums in compensation for any mental and physical suffering, humiliation, embarrassment and inconvenience which he suffered by reason of the violation of his constitutional rights.

If you find the plaintiff entitled to damages from the defendants, then you are to list individually the damages assessed against each defendant.

AUTHORITY: Carey v. Piphus, 435 U.S. 247, 98 S.Ct. 1042, 55 L. Ed. 2d, 252 (1978).

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GEORGE HOPKINS,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 15

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: DAMAGES FOR CONSTITUTIONAL RIGHTS VIOLATION

You are instructed that you are to award to the plaintiff, in addition to actual damages, damages for the deprivation of his constitutional rights. The precise monetary value you place upon any constitutional right which was denied to the plaintiff is within your discretion to aid you in doing so. You may wish to consider such factors as the importance of the right in our system of government, the role which this right has played in the history of our republic and the significance of the right in the context of the plaintiff's circumstances.

AUTHORITY: Glasson v. Louisville, 518 F. 2d 899 (6th cir., 1975); Herreras v. Valentine, supra.; Villauevav George, 659 F. 2d 851 (8th cir., 1981).

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GEORGE HOPKINS,

PLAINTIFF,

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PLAINTIFF'S REQUESTED INSTRUCTION NO. 16

MICKEY FRONTO, JR., ET. AL.,

DEFENDANTS.

TOPIC: PUNITIVE DAMAGES

The plaintiff, George Hopkins, in his Complaint has asked that you, the Jury, award punitive damages against the defendants for violating his constitutional rights. Punitive damages may be awarded for violation of the Civil Rights Act where the conduct of the violator was done intentionally, maliciously, wantonly, or oppressively done. The purpose of punitive damages is two-fold: to punish the wrongdoer and to discourage the same type of misconduct from happening in the future.

Therefore, if you find from a preponderance of the evidence that the acts and conduct of one or more of the defendants deprived the plaintiff of his constitutional rights and further that such conduct was done intentionally, maliciously, wantonly, or oppressively, then you may award punitive damages in such amount as you think are warranted under the circumstances. The award of punitive damages, if any, is made separate and apart

from any award of compensatory damages which you may make under these instructions.

AUTHORITY: McDaniel v. Carroll, 457 F. 2d 968 (6th cir., 1972).

C/A 82-329, HOPKINS V. FRONTO et al, (\$1983 action)

Prelim. Conf. 7 November 1983.

Motion by two defendants to allow them to file belated answer. They admit they received service but did not know that they were parties and had to answer. Pafunda for these defendants claims they are ignorant of federal procedures, etc. Default judgment pending against these two defendants (ERSE JUSTICE and RONNIE WILLIAMS)

Need to order admitted STRATTON stipulations, STRATTON pre-trial memo, PLAINTIFF memo

GOOMBA

Office file

C/A 82-329, GEORGE HOPKINS V. MICKEY FRONTO, ET AL (\$1983 action).

Plaintiff (reposedented by Johnson & Mann of Prestonsburg) alleges that he was arrested at a private residence on public intoxication and disorderly conduct charges following a fight in a restaurant. When taken to the Pike Co. jail, Fronto, deputy jailor, without provocation, "hauled off and hit him in the face" knocking him down. Then, "took a running-go and kicked him in the eyeball with all his might with the toe of his boot", and continued to kick him here and there until he passed out. Kicked him some more in the cell, too, then refused to let him seek medical attention.

Fronto moved separately to dismiss on grounds of failure to state a cause of action, arguing, pitifully, that plaintiff was not deprived of some federal right by acting under color of law. Says that the controlling factor is that he was not acting under color of law, then cited a case directed to acts of an individual (Screws, 65 S.Ct. 103 (1945)). He argues also that the complaint failed to state specifically that he was acting under color of law. OVERRULED by the court.

STRATTON (Jailor). Answers: admits incarceration, and denies jurisdiction (failure to exhaust state remedies). Gen'l denial.

FRONTO answers: denies jurisdiction (failure to exhaust state remedies). Argues affirmatively that no federal right was abused, good faith actions. Otherwise, general denial).

DISCOVERY seems to be complete.

Judge

ASSIGNED FOR PRE-TRIAL CONFERENCE AT PIKEVILLE, KENTUCKY
ON NOVEMBER 7, 1983 AT 10:00 A.M.

PIKEVILLE CIVIL ACTION NO. 82-329

GEORGE HOPKINS	John W. Mann
VS:	
MICKEY FRONTO, Pike County Deputy Jailer, ind. & in his off. cap and	Charles E. Lowe, Jr.
MORRIS STRATTION, Pike County Jailer in his off. cap.	Pamela Todd Robinette
ERSE JUSTICE, ind. & in his official cap.	BERNARD PAFUNDA
RONNIE WILLIAMS, ind. & in his official cap.	

PRE-TRIAL CONFERENCE

TRIAL BY JURY SET FOR DECEMBER 6, 1983 at 9:00 A.M.

- 8/24/82 #1 COMPLAINT
- 9/20/82 #7 ANSWER, of deft Morris Stratton
- 9/22/82 #9 ANSWER, of deft Mickey Fronto
- 3/21/83 #23 MEMORANDUM OF LAW, of plff on issue of deft. Stratton's liability
- 7/11/83 #29 AMENDED COMPLAINT, of plff.
- 10/7/83 #30 EXPERT WITNESS LIST, of deft, Morris Coon Stratton indicating they have no expert witnesses.
- 10/26/83 #33 PROFFERED STIPULATIONS, of plff
- #34 MOTITON AND MEMORANDUM, of plff for default judgment ✓
- #35 SUMMONS w/return serv. Erse Justice certified mail return receipt requested on 7/13/83;
- COPY OF SUMMONS w/note on reverse (Atty John W. Mann stated Ronnie Williams & Erse Justice served personally on 7/28/83 by D.S.P.C.) TENDERED 10/26/83. ✓
- ACKNOWLEDGEMENT OF RECEIPT OF SUMMONS & COMPLAINT, signed by Ronnie Williams on 7/28/83 TENDERED 10/26/83; ✓
- PRE-TRIAL MEMORANDUM, of plff TENDERED 10/26/83 ✓
- 10/31/83 #37 MOTION, of defts, Erse Justice & Ronnie Williams for leave to fil answer
- PRE-TRIAL MEMORANDUM, of deft Morris Coon Stratton TENDERED 11/2/83
- FACTUAL STIPULATIONS, of deft, Morris Coon Stratton TENDERED 11/2/83 ✓

*m/s/j
Tendered filings*

*Erse
Williams*

✓
✓

PIKE 82-329

*Indicates motion been ruled on.

PIKE 82-329

DATE 1982	NR.	GEORGE HOPKINS	PROCEEDINGS VS.	MICKEY FRONTO, ET AL
8/24	1	COMPLAINT, Summons & 2 copies iss. & mailed USM w/Copy of Mag. Order & stip.		
9/2	2	SUMMONS w/marshal's return served Morris Stratton on 8/31/82; Mickey Fronto on 8/30/82.		
9/15	*3	MOTION, of deft, Mickey Fronto, to dismiss.		
	4	MEMORANDUM, of deft, Mickey Fronto, in suppt. mot. to dismiss.		
9/20	5	RESPONSE, of plff George Hopkins, to deft's mot to dism & memo.		
	6	STIPULATION, of plff to Fed. Magist. Act.		
	7	ANSWER, of deft, Morris Stratton.		
9/21	8	ORDER: (GWU) Mot. of deft., Mickey Fronto, to dismiss OVERRULED; deft shall have 10 days from even date hereof in which to respond to complaint (10/1/82) Copies as noted.		
9/22	9	ANSWER, of deft, Mickey Fronto.		
9/29	10	ORDER: (GWU) Prelim. Conf. set for 3/1/83 at 3:30 p.m.; on or bef. 2/16/83 parties to fil prelim. conf. memo. Copies w/9/22/80 std. order attach. as noted.		
10/4	11	INTERROGATORIES, of deft, Morris Stratton, propounded to plff.		
10/12	12	INTERROGATORIES, of plff as propounded to deft.		
10/25	13	ANSWERS TO INTERROGATORIES, of deft, Mickey Fronto, Jr.		
10/29	14	ANSWERS TO INTERROGATORIES, of plff as propounded by deft, Morris Stratton.		
11/1	15	NOTICE, of deft, Morris Stratton, to take depo of George Hopkins on 11/23/82 at 3:00 p.m.		
	16	ANSWERS TO INTERROGATORIES, of deft., Morris Stratton, propounded by plff.		
12/8	17	NOTICE, of plff to take depos. of Mickey Fronto & Morris Stratton on 12/14/82 at 9:20 A.M.		
12/10	DEP#1	DEPOSITION, of George Hopkins, taken pur. to agreement on behalf deft.		
12/27	DEP#2	DEPOSITION, of Mickey Fronto, Jr. taken pur. to notice on behalf of plff.		
	DEP#3	DEPOSITION, of Thomas Mullins, behalf of plff. (NOTE: No notice has been filed).		
12/29	DEP#4	DEPOSITION, of MORRIS STRATTON, JR. behalf of plff pur. to notice.		
1983				
1/27	18	NOTICE, of plff to take depos. of Erse Justice & Ronnie Williams on 2/2/83 at 10:00 a.m. 2 Depo Subpoenas & 1 copy each iss & handed Edna Johnson, Sec. to John Mann.		

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	PIKE 82-329 DOCKET NO.
GEORGE HOPKINS		MICKEY FRONTO, ET AL	PAGE ___ OF ___ P
DATE	NR.	PROCEEDINGS	
1983			
2/9	19	PRELIMINARY CONFERENCE MEMORANDUM, of deft, Morris Stratton,	
2/16	20	PRELIMINARY CONFERENCE MEMORANDUM, of deft. Mickey Fronto.	
2/17	21	PRELIMINARY CONFERENCE MEMORANDUM, of plff.	
3/2	22	CIVIL MINUTES:(GWU) Prelim. Conf. held at Pike on 3/1/83 ordered (1) plff shall fil memo of points & authorities upon question of jurisdiction of deft, Morris Stratton, Pike Co. Jailer, in his off. cap., on or bef. 3/21/83; Respons. memo shall be fil on or bef. 4/4/83; (2) Discov. by all parties shall be complet & fil w/Clerk on or bef. 9/1/83; (3) Pre-Trial set for 11/7/83 at 10:00 a.m.; (4) TRIAL BY JURY set for 12/6/83 at 9:00 A.M. Pike. Copies as noted.	
3/21	23	MEMORANDUM OF LAW, of plff on issue of deft, Stratton's liability	
4/7	24	AGREED ORDER:(GWU) by agreement of parties deft, Morris "Coon" Stratton granted ext. time to & inc. 4/11/83 to fil response to plff's memo of law on issue of deft, Stratton's liability. Copies as noted.	
4/11	25	MEMORANDUM of deft, Stratton, of Law on issue of liability	
4/15	DEP#5	DEPOSITION, of Dr. Rudolfo Valera taken pur. to notice attached depo. on behalf plff.	
6/13	26	MOTION, of plff, to amend complaint & name add'l defts, Pike Co. Sheriff's Deputies, Erse Justice and Ronnie Williams.	
	27	MEMORANDUM, of plff in suppt. mot. to amend complaint.	
6/21	DEP#6	DEPOSITION, of Erse Justice taken on behalf plff pur. to notice.	
	DEP#7	DEPOSITION, of Ronnie Williams taken on behalf plff. pur. to notice.	
6/29	28	ORDER:(GWU) mot. of plff to amend complaint and add defts, IT IS SO ORDERED. Copies as noted.	
7/11	29	AMENDED COMPLAINT of plff rec'd & fil per Order(REF#28) 2 Summor w/ copy of Amend. Comp. & Complaint & Form 18-A issued & mailed atty for service as to add'l defts added, Erse Justice & Ronnie Williams	
10/7	30	EXPERT WITNESS LIST, of deft, Morris Coon Stratton, indicating t have <u>NO EXPERT WITNESSES</u> .	
10/24	* 31	MOTION, of deft, Morris Coon Stratton, to set aside pre-trial s 11/7/83 and trial set for 12/6/83.	
10/25	32	ORDER(GWU) Mot. of deft Stratton, DENIED pre-trial of 11/7/83 & of 12/6/83 shall be held as scheduled. provid. however if oth defts are not before Court by time of pre-trial they shall be dism. as parties herein. Copies as noted.	

PIKE 82-329

CIVIL DOCKET CONTINUATION SHEET

PIKE 82-329

PLAINTIFF GEORGE HOPKINS,	DEFENDANT MICKY FRONTO, ET AL	PIKE 82-329 DOCKET NO. _____ PAGE ____ OF ____ PAGES
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DATE	NR.	PROCEEDINGS
1983		
10/26	33	PROFFERED STIPULATIONS, of plff.
	34	MOTION AND MEMORANDUM, of plff for default judgment.
	35	SUMMONS w/return serv. Ronnie Williams by certified mail return receipt requested on 7/13/83. (serv. by Atty. John W. Mann).
	36	SUMMONS w/return serv. Erse Justice by certified mail return receipt requested on 7/13/83 (serv. by Atty John W. Mann). COPY OF SUMMONS w/note on reverse (Atty John W. Mann stated was served personally on Ronnie Williams on 7/28/83 and E. Justice on 7/28/83 by D.S.P.C.) TENDERED 10/26/83. ACKNOWLEDGMENT OF RECEIPT OF SUMMONS & COMPLAINT, sign by Erse Justice on 7/24/83. TENDERED 10/26/83. ACKNOWLEDGMENT OF RECEIPT OF SUMMONS & COMPLAINT, sign by Ronnie Williams on 7/28/83. TENDERED 10/26/83. PRE-TRIAL MEMORANDUM, of plff TENDERED 10/26/83.
10/31	37	MOTION, of defts, Erse Justice & Ronnie Williams for leave to fil answer. PRE-TRIAL MEMORANDUM, of deft, Morris Coon Stratton - TENDERED 11/2/ FACTUAL STIPULATIONS, of deft, Morris Coon Stratton - TENDERED 11/2/