

Nevada: Muslim Prisoner Awarded \$39,260 in Damages Plus Attorney's Fees

A NEVADA FEDERAL JURY INITIALLY awarded \$28,800 to a state prisoner after finding that officials at the Southern Desert Correctional Center had violated his religious and equal protection rights, and one guard used excessive force.

Prisoner Reginald C. Howard claimed he was denied the opportunity to attend Muslim religious services and denied access to his holy books and texts. He also alleged he received varied or discriminatory treatment due to his religion.

Following the jury's verdict in November 2015, the defendants moved for a new trial. The district court rejected their arguments that Howard's counsel made improper closing statements and that the verdicts were cumulative:

The jury had found that guards Ron Jaeger, Vincent Raybourn and Rene Galvan, as well as Chaplain Julio Calderin and deputy director Brian Connett, were liable for violating Howard's First, Eighth and Fourteenth Amendment rights. The jurors awarded \$4,000 in compensatory damages against Jaeger, \$1,000 each against Raybourn and Galvan, and \$2,000 each against Connett and Calderin. Further, punitive damages of \$5,000 were awarded against Jaeger, \$1,000 against Raybourn, \$4,000 against Galvan, and \$4,400 each against Connett and Calderin.

The district court held that while Connett failed to act on Howard's grievances related to his inability to worship as a Muslim, there was not "clear evidence with respect to the issue of discriminatory or different treatment of Howard due to his religion."

The court also noted Connett and Calderin's demeanors at trial. Connett was "disdainful" of having to respond to a prisoner's complaint and "offended at having to appear at trial to defend his actions," while Calderin exhibited "nonchalance about lying in an official report," was indifferent to his actions and angered at having to respond to Howard's claims.

Raybourn was in a position to help Howard receive his religious items, but did nothing to assist him. The court noted this was limited to a single instance. As such, it reduced the punitive damages against Raybourn from \$1,000 to \$10; it

also reduced the punitive damages against Connett to \$50.

Aside from reducing those two punitive damages awards, the district court upheld the jury's remaining verdict in an August 23, 2018 order, plus granted default judgment against guards R. Klein and Cheryl Burson. The court then awarded \$4,000 in damages against Klein and \$9,600 against Burson. The total damages award, as amended and in-

cluding the default judgments, was \$39,260.

The district court further awarded Howard's attorney \$46,819 in fees. Both Howard and the defendants appealed to the Ninth Circuit in September 2018. Howard is represented by attorney Travis N. Barrick with the Las Vegas law firm of Gallian Welker & Beckstrom, L.C. See: *Howard v. Connett*, U.S.D.C. (D. Nev.), Case No. 2:11-cv-01402-RFB-GWF. ■

New Mexico Medical Technician Wins \$150,000 Jury Award for Abuse by Jailers

by Ed Lyon

ESTRELLA TENORIO WAS A NURSE'S aide/medical technician employed by for-profit contractor HealthCare Partners, Inc. (HCP). HCP specializes in providing medical services to prisoners. Tenorio's first assignment was at a jail located near Las Vegas, New Mexico. Her mother was a state prison employee and her father had previously worked at the same jail.

After completing her shift on May 11, 2013, Tenorio entered the facility's master control room to leave paperwork with jailers Joey Romero and Matthew Borrego. The two men decided to handcuff her to a chair. They later released her, only to try re-cuffing her. During that struggle jailer Antonio Padilla and supervisor Elfigo Sandoval entered the control room and joined in the fray. Tenorio was cuffed to a toilet and then to another chair that she managed to scoot out into the hallway, in view of a video camera. She was eventually released and left injured and bruised from her unlawful restraint by the guards.

"It wasn't horseplay. It wasn't joking around," Tenorio stated. "I was fighting to get them off of me.... I was touched everywhere, between my thighs up to my chest. They were in my face. I could feel them breathing on my neck."

She didn't report what happened due to fear of retaliation.

"I couldn't lose my job," she said. "I needed that income, and I had seen that done there before."

Nearly a month later the incident came to light and was investigated. When ques-

tioned, Tenorio made a truthful statement that was presumably verified by the hallway video footage, which promptly vanished.

Immediately afterwards, many of Tenorio's co-workers began disparaging her behind her back and shunning her to her face. HCP reassigned her to a facility in Colorado, beyond her capability to commute to and from work, which forced her to quit.

"I got more respect from the inmates that [sic] I did from some of my co-workers, and that's the truth," she stated.

Albuquerque attorney Carolyn M. Nichols filed a 42 U.S.C. § 1983 suit on Tenorio's behalf in federal district court, alleging both federal and state law causes of action. Even without the missing hallway video, on September 28, 2018 the jury found in Tenorio's favor, awarding her \$50,000 in compensatory damages, \$34,000 in punitive damages against Sandoval, and \$33,000 each in punitive damages against Romero and Borrego, for a total of \$150,000.

Additionally, Tenorio's attorneys have filed a motion seeking \$610,460.02 in fees and costs plus gross receipt taxes. That motion remains pending. See: *Tenorio v. San Miguel County Detention Center*, U.S.D.C. (D. NM), Case No. 1:15-cv-00349-LF-JHR.

According to an October 2018 news report, the New Mexico Association of Counties said it had paid around \$195,000 in legal fees defending San Miguel County in the case. ■

Additional source: sfnewmexican.com