

ORIGINAL

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION
NO. 91-3176-E

ALBERT LEWIN

vs.

JOSEPH FITZPATRICK, RICHARD POND
and RICHARD FLYNN

SPECIAL JURY VERDICT

I. Assault and Battery

1. Did defendant Joseph Fitzpatrick or defendant Richard Pond, acting alone or in concert with the other, commit an assault and battery upon on plaintiff Albert Lewin on May 14, 1988?

Joseph Fitzpatrick	<u> ✓ </u>	YES	<u> </u>	NO
Richard Pond	<u> ✓ </u>	YES	<u> </u>	NO

II. Violation of Constitutional Rights

Joseph Fitzpatrick

2. Did defendant Joseph Fitzpatrick deprive plaintiff Albert Lewin of a right guaranteed by the State or Federal Constitutions by subjecting him to summary punishment or to excessive force, either by actively taking part in the unconstitutional activity or by lending aid or encouragement to the wrongdoer?

 ✓ YES NO

Richard Pond

3. Did defendant Richard Pond deprive plaintiff Albert Lewin of a right guaranteed by the State or Federal Constitutions by subjecting him to summary punishment or to excessive force, either by actively taking part in the unconstitutional activity or by lending aid or encouragement to the wrongdoer?

YES NO

If your answer to Question 3 is "YES," please answer Question 5. If your answer to Question 3 is "NO" but your answer to Question 2 is "YES", please answer question 4.

4. Did defendant Richard Pond deprive plaintiff Albert Lewin of a right guaranteed by the State or Federal Constitutions by subjecting him to summary punishment or to excessive force, by being present at the scene of the constitutional violation and failing to take reasonable steps to protect Albert Lewin from another jail officer's infliction of summary punishment or use of excessive force upon Albert Lewin?

YES NO

Richard Flynn

5. Did defendant Richard Flynn deprive plaintiff Albert Lewin of a right guaranteed by the State or Federal Constitutions by subjecting him to summary punishment or to excessive force, either by actively taking part in the unconstitutional activity or by lending aid or encouragement to the wrongdoer?

YES NO

If your answer to Question 5 is "YES," please answer Question 8. If your answer to Question 5 is "NO" but your answer to Question 2 and/or Question 3 is "YES", please answer question 6.

6. Did defendant Richard Flynn deprive plaintiff Albert Lewin of a right guaranteed by the State or Federal Constitutions by subjecting him to summary punishment or to excessive force, by being present at the scene of the constitutional violation and failing to take reasonable steps to protect Albert Lewin from another jail officer's infliction of summary punishment or use of excessive force upon Albert Lewin?

_____ YES _____ NO

If your answer to Question 6 is "YES," please answer Question 8. If your answer to Question 6 is "NO" but your answer to Question 2 and/or Question 3 is "YES", please answer Question 7.

7. Did defendant Richard Flynn, in his role as supervisor of defendants Fitzpatrick and Pond, deprive plaintiff Albert Lewin of a right guaranteed by the State or Federal Constitutions by subjecting Albert Lewin to summary punishment or to excessive force, by being recklessly or callously indifferent to the constitutional rights of Albert Lewin?

_____ YES _____ NO

III. Intentional Infliction of Emotional Distress

8. Did any defendant, acting alone or in concert with one or both of the other defendants, intentionally cause the plaintiff Albert Lewin to suffer emotional distress?

Joseph Fitzpatrick	<u> ✓ </u>	YES	<u> </u>	NO
Richard Pond	<u> ✓ </u>	YES	<u> </u>	NO
Richard Flynn	<u> ✓ </u>	YES	<u> </u>	NO

If your answer to either part of Question 1 is "YES", and/or if your answer to Question 2 and/or Question 3 is "YES", and/or your answer to Questions 4, 5, 6, or 7 is "YES", and/or if your answer to any part of Question 8 is "YES", please answer Question 9. Otherwise, stop here, sign the Special Jury Verdict slip, and return to the courtroom.

IV. DAMAGES

Compensatory Damages

9. Please state, in words and numbers, the amount of money that you find will fairly and reasonably compensate the plaintiff Albert Lewin for the injuries he suffered on account of defendant(s)' conduct.

One hundred fifty thousand Dollars
Amount in Words

\$ 150,000.00
Amount in Numbers

If you answer to Question 2 and/or Question 3 is "YES", and/or your answer to Questions 4, 5, 6, or 7 is "YES", please answer Question 10. Otherwise, stop here, sign the Special Jury Verdict slip, and return to the courtroom.

Punitive Damages

10. Do you award punitive damages against the defendants:

Joseph Fitzpatrick ✓ YES NO
[Only if your answer to Question 2 was "YES"]

Richard Pond ✓ YES NO
[Only if your answer to Question 3 or Question 4 was "YES"]

Richard Flynn ✓ YES NO
[Only if your answer to Question 5, Question 6 or Question 7 was "YES"]

If your answer to any part of Question 10 is "YES", please answer Question 11. If your answer to all parts of Question 10 is "NO", stop here, sign the Special Jury Verdict slip, and return to the courtroom.

11. Please state, in words and numbers, the amount of punitive damages that you award against each of the defendants as to whom you answer to Question 10 was "YES".

Joseph Fitzpatrick

Twenty five thousand dollars
Amount in Words

\$ 25,000
Amount in Numbers

Richard Pond

Twenty five thousand dollars
Amount in Words

\$ 25,000
Amount in Numbers

Richard Flynn

Twenty five thousand dollars
Amount in Words

\$ 25,000
Amount in Numbers

I CERTIFY THAT EACH OF THE QUESTIONS ANSWERED ABOVE WAS ANSWERED BY AT LEAST 11 OF THE JURORS.

Date: 4/27/95

Andrea Brizuela
Foreperson