

1993 WL 172290

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United States District Court, N.D. California.

Nina GELFANT, Plaintiff,

v.

Bernard RILEY, et al., Defendants.

No. C 91-1384 BAC.

May 19, 1993.

MEMORANDUM OPINION

CAULFIELD, District Judge.

INTRODUCTION

*1 This is an action under 42 U.S.C. § 1983 brought by plaintiff **Nina Gelfant** against defendants Bernard Riley and the City of Oakland, California. This case was tried before the court on June 15 through June 29, 1992. Plaintiff claims that defendant Riley sexually assaulted her on January 6 and 7, 1989. These claims arise out of incidents which occurred at plaintiff's residence on January 5, 6 and 7, 1989. Defendants do not deny that plaintiff and Riley engaged in sexual acts on the days in question. Instead, defendants assert that plaintiff consented to the actions which took place. Plaintiff appeared through her attorneys, Daniel Horowitz and Steven Mendelson. Defendant Riley appeared through his attorney, Charles O. Triebel. Defendant City of Oakland ("City") appeared through its attorney, Karen A. Silverstein.

Oral and written evidence was presented by all parties. The case was argued and submitted for decision.

The allegations contained in plaintiff's complaint present charges of police misconduct of the most serious nature. The plaintiff testified for two days and was subjected to cross-examination by both counsel for Riley and counsel for the City. Defendant Riley also testified for approximately two days and was subjected to cross-examination by counsel for Ms. Gelfant. During the course of the trial in this matter, the court had ample opportunity to observe the demeanor and judge the

credibility of both parties in this matter. Detailed evidence was presented through psychological experts and authorities on police department procedures.

For the reasons set out below, the court finds FOR THE PLAINTIFF and AGAINST THE DEFENDANTS in this case.

FINDINGS OF FACTS

The court makes the following findings of facts:

THE INCIDENTS

1. On January 5, 1989, at 10:30 p.m., defendant Bernard Riley began his shift as an Oakland Police Officer. Plaintiff **Nina Gelfant** had worked as an interpreter for hearing-impaired persons at a national conference held in San Francisco earlier that day. On her way home, Ms. Gelfant stopped at the 7-11 store at Bay and Harrison Streets in Oakland. While there, Ms. Gelfant observed three police officers, one of whom was defendant Riley. Ms. Gelfant exchanged pleasantries with the officers and thereafter drove home a short distance away. She thanked the officers for their work on behalf of the community. Ms. Gelfant testified that she only went into the 7-11 store at night if police cars were in the parking lot, and that she went out of her way to be polite to police officers in Oakland because she believed they have a difficult job and receive little community support. Ms. Gelfant made no sexually suggestive remarks or gestures.

2. Officer Riley followed Ms. Gelfant to her house in his marked patrol car. She had not requested the police escort. Upon arrival at her apartment, Ms. Gelfant parked her car and approached Officer Riley's vehicle to find out if she had done something wrong and why he had followed her home. When asked why he had followed her home, Officer Riley stated, "You were so nice, I wanted to make sure you got home safely." After Officer Riley had assured Ms. Gelfant that she had done nothing wrong, she offered him a cup of coffee.

*2 3. Officer Riley informed Ms. Gelfant that he had to respond to a pending police call but asked if he could come back in 10 or 15 minutes for the coffee. He then shined his patrol car spot light on her front door.

4. After he completed his call, Officer Riley returned to Ms. Gelfant's apartment in the early morning of January 6, 1989. He knocked on the door saying, "Oakland Police, open up." Ms. Gelfant allowed him into her apartment. He later left on another call and returned again, gaining entry by stating, "Oakland police, open up." It is undisputed that Officer Riley was not at Gelfant's residence to take a report or conduct any other official police business.

5. While in her apartment, Officer Riley attempted to demonstrate to Ms. Gelfant how his speed loader worked. He took his gun out of the holster and removed the bullets. When he attempted to use the speed loader, it did not work.

6. During his visits on January 6 and 7, 1989, Officer Riley compelled plaintiff to engage in various acts of sexual conduct including oral copulation, kissing, hugging and fondling. The court finds that plaintiff did nothing that could be construed as sexually suggestive or desirous; all sexual activity was initiated by Officer Riley. Plaintiff testified that she pushed Officer Riley's hands off of her, pulled away from him, attempted to keep him from inserting his penis into her mouth, attempted to distract him, and constantly reminded him that he needed to get back on duty and do his job. Officer Riley used his arm to pull plaintiff to him, used his hands to push her down and push her head to his crotch so he could insert his penis into her mouth, and otherwise used force and physical intimidation to gain advantage over Ms. Gelfant.

7. Officer Riley caused Ms. Gelfant severe emotional distress. During his visits to her home, he smelled of alcohol and Ms. Gelfant was afraid of his strange behavior, afraid of his gun, afraid he would hurt her, afraid that her son would be left without a mother and bewildered as to how a simple offer of a cup of coffee turned into a potentially violent sexual attack. She did not violently resist because of the disparity in their size and strength, and because his strange behavior led her to fear angering him and suffering severe physical injuries. Ms. Gelfant also was afraid of his status as a police officer. She feared that if Officer Riley harmed her, the police would believe his story, whatever it was.

8. Officer Riley indicated his desire to return to Ms. Gelfant's home and she said, "You don't need to come back; I don't want you to come back."

9. Officer Riley came back a third time, with his brother, to Ms. Gelfant's home intoxicated and entered alone. Ms. Gelfant did not invite him but was afraid to deny him entry. Officer Riley and his brother, Windom Riley, were out on the night of January 7, 1989. They went to a restaurant and ordered take-out Chinese food. They then went to a bar and had two drinks within fifteen minutes. Officer Riley told his brother of this new lady he had met and suggested they go and eat the food with her. They did not order food for her, nor did they call to see if she wanted company. They showed up uninvited at her house and Officer Riley went to the front door to see if it was permissible for them to enter.

*3 10. Officer Riley gained entry the third time, as he had done previously, by exclaiming, "Oakland Police." He insisted that he would not leave until she opened the door. Ms. Gelfant opened the door, which he pushed past her when she opened it. Windom Riley waited in the car. Officer Riley demanded alcohol and went to the kitchen searching for it. In an effort to appease him, Ms. Gelfant found some and let him have a drink. Officer Riley was under the influence of alcohol and, without Ms. Gelfant's permission and over her protests, kneaded, sucked and bit her breasts. She pushed him away and told him to stop. He pulled down her pants after overcoming her physical resistance and put his fingers inside her vagina. He forced Ms. Gelfant to orally copulate him. Officer Riley pushed Ms. Gelfant down to the floor, climbed on top of her and rubbed his penis against her vagina and said, "I could rape you, but I won't." He also took out a condom, sat on her chest, put a thigh on each side of her face, and shoved his penis into her mouth. He pried her mouth open and began shoving his testicles into her mouth. She turned her head away at the first opportunity that his hands were not on her head. Officer Riley then raped Ms. Gelfant. Ms. Gelfant testified that after raping her, Officer Riley said, "Now nothing non-consensual happened here, isn't that right?"

11. Before and after the rape, Ms. Gelfant was afraid to run because Officer Riley's brother was waiting outside.

12. Officer Riley expressed the belief that rape is not rape unless "she complained," even though he has attended the

Oakland Police Academy, the Advanced Officer's Course and the Evidence Technician School.

13. Officer Riley returned to Ms. Gelfant's residence again, for the fourth time, on January 10, 1989 at 10:30 a.m. She refused to allow him entry.

14. Officer Riley cannot recall with specificity what happened on January 5, 6, and 7, 1989. The memory loss exists at various times and his memories are confused and changed during cross-examination. There is very little consistency between his testimony on material matters several days after the event and his testimony years after the event. Based upon the court's observation of Officer Riley's testimony and demeanor, the court finds Officer Riley's testimony about the interaction with Ms. Gelfant lacking in credibility and truthfulness.

15. Ms. Gelfant testified for two days, during which time the court observed her demeanor. Based upon the court's observation, the court finds Ms. Gelfant to be wholly credible and truthful in her testimony about the events of January 5, 6 and 7, 1989.

16. The City of Oakland did not require Officer Riley to submit to a fitness-for-duty medical examination that might have detected signs of stress and emotionally-related dysfunction and mental illness or excessive alcohol use. Nor did they require him to undergo any training, retraining or counseling after his incidents of irresponsibility to citizens and to supervising officers.

*4 17. The court rejects the defense contention that Officer Riley's actions were merely "benign, ambivalent sexual encounters, almost adolescent in quality." The court finds that Officer Riley sexually assaulted and raped Ms. Gelfant against her will.

18. The Oakland Police Department Manual of Rules ("M.O.R.") bars the conducting of personal business while officers are on duty. However, this rule is not enforced. It is the policy of the Oakland Police Department to allow police officers to conduct personal business while on duty. An officer is not in violation of the M.O.R. regarding conducting personal business on duty so long as he or she is "at the appointed place at the appointed time, taking care of his [or her] duties."

19. The Oakland Police Department has not ordered retraining or a fitness-for-duty examination for Officer Riley. The Oakland Police Department's policy with regard to allegations of misconduct against Officer Riley establishes a conscious disregard of public safety. Captain Galloway testified that Officer Riley has received no discipline or retraining and that, except for "pathological situations," there are no standards as to whether officers should be referred for psychological counseling or evaluation.

SPECIAL DAMAGES

20. On January 5, 1989, Ms. Gelfant was extremely well-respected in her profession because of her skills. She was in demand as an academic, business and technical interpreter for the hearing-impaired.

21. Ms. Gelfant had the capacity to earn \$55 per hour and \$50,000 per year, and it was foreseeable that she would earn \$50,000 per year by 1992. The best free-lance sign interpreters earned \$55 per hour and \$50,000 per year.

22. Ms. Gelfant was a single parent and, after she separated from her husband, worked part-time in the late 1980's so that she could spend more time with her son and see that he got off to school and home from school properly.

23. On January 5, 1989, Ms. Gelfant's son was 12 years of age and Ms. Gelfant had just begun to increase her work load to save money for his education. He was beginning to be able to take a bus to and from school, thereby increasing the ability of Ms. Gelfant to take on jobs earlier in the morning and work after 2:30 p.m. Ms. Gelfant had begun to work additional hours and solicit more business so that she could save money to send her son through college.

24. In 1988, working part-time, and rejecting some court jobs because of the subject matter (*e.g.*, violence, rape, etc.), Ms. Gelfant's earnings were \$23,366.06.

25. As a result of the complained of events, Ms. Gelfant has been disabled from her employment as a free-lance sign language interpreter.

26. She has worked at a job teaching adults a few nights per month with the Piedmont School District, so that her son may attend the highly regarded schools in the Piedmont School District.

27. The amount of Ms. Gelfant's total earnings from January 1, 1989 until June 12, 1992 was \$3,471.30 from her occasional employment as a teacher of sign language to adults in the Piedmont Adult School.

*5 28. The labor market for free-lance sign language interpreters is very good. The use of interpreters is growing. The Americans With Disabilities Act, effective July 26, 1992, increased the employment of sign language interpreters.

29. Ms. Gelfant's yearly earnings for 1989 would have been \$30,000, \$40,000 for 1990, \$45,000 for 1991, \$50,000 for 1992, and is projected at \$55,000 for 1993.

30. The current value of Ms. Gelfant's past lost earnings is \$147,562.00.

31. The current value of Ms. Gelfant's past medical expenses is \$26,747.00.

32. Future medical expenses should include therapy averaging 2.5 visits per week for six years, at an estimated cost of \$98,000.00.

33. Total special damages, including all the items indicated above, are \$272,309.00.

PSYCHOLOGICAL DAMAGES

34. Ms. Gelfant is a survivor of serious childhood incest and was raped at 18 years of age while in college. After the rape at college, Ms. Gelfant received psychotherapy for two years from a psychiatrist, and at least part of that therapy was devoted to discussing and dealing with issues of childhood sexual abuse. Prior to the incidents in question, she was leading a normal, productive life. Ms. Gelfant had a nine-year marriage which produced one child, a son, who is presently 15 years of age. Her son is academically superior and musically gifted. Ms. Gelfant still maintains amicable relations with her ex-husband in order to insure that her son has the benefit of contact with his father. Ms. Gelfant has been self-employed as a free-

lance sign language interpreter and has an extremely wide range of skills in her chosen profession. She was extremely competent and respected in her profession as of January 1989.

35. In June of 1988, Ms. Gelfant was date-raped by someone with whom she had a previous dating relationship. As a result, Ms. Gelfant suffered post-traumatic stress disorder. The perpetrator acknowledged that he did commit the rape.

36. Ms. Gelfant initiated therapy with Susan Wachob, L.C.S.W. at the Rape Trauma Center at San Francisco General Hospital. Ms. Wachob testified at trial about Ms. Gelfant's stress disorder after the June 1988 rape. Ms. Wachob stated her opinion that a rape victim often blames herself for the occurrence of a rape. In the mind of the victim, a rape is either caused by the rapist or by the victim, and it is easier for the victim to assume that she caused it.

In her direct testimony, Ms. Wachob explained that if the rape was caused by the rapist:

[T]hen it means I have absolutely no control over what happened to me. That means that I, that potentially I will be victimized again. So that is very frightening. That means the world is dangerous. That I can have no control over it. If I am responsible, I can not do whatever it is that I supposedly did to bring it on and that gives me some control and some safety. So it is much easier to say somehow I did it, somehow it is me, and I can just not do it again and then I will be safe.

*6 37. Ms. Gelfant made significant progress in treatment with Ms. Wachob concerning the June 1988 rape, and Ms. Gelfant was able to come through the sequela of her post-traumatic stress disorder which was attributed both to the June 1988 rape and to childhood incest. Ms. Gelfant continued her employment and daily life.

38. Officer Bernard Riley's attacks on January 6 and January 7, 1989 caused Ms. Gelfant to suffer rape trauma syndrome. This manifested itself in such ways as her

inability to fully appreciate the import of what happened and her difficulty in using the term rape. It is a sub-classification of post-traumatic stress disorder. As a result, Ms. Gelfant had difficulty fully admitting to herself what had happened to her and had difficulty recalling the events. It was initially difficult for Ms. Gelfant to accept the idea that she had in fact been raped. Ms. Wachob testified:

There's a certain level of denial that people need in order to deal with highly stressful events and to let yourself feel the full impact of what happened can be totally overwhelming—so many survivors don't remember right after what happened. Many survivors don't remember the intimate facts but sort of the feeling attached to it. They may have the feelings but not remember the facts. A whole range of presentations is normal and there are all ways of coping with an event that is too traumatic to be fully present with.

39. Officer Riley's violent forced oral copulation and rape on the third occasion was an event that *any person* would find distressing and lead to psychological trauma.

40. As a result of Officer Riley's acts, Ms. Gelfant's post-traumatic stress disorder was gravely aggravated. She became depressed, anxious, suicidal, and phobic about leaving her home. In addition, she suffered from fear of the police and police cars, fear of going to unfamiliar neighborhoods, anxiety, sleeplessness, recurrent dreams, intrusive memories, and other maladies sufficient to preclude her from working—other than a minimal part-time job—from the date of injury up until the present. She has difficulty concentrating and falling asleep. She becomes hyper-vigilant and aware. On the change before and after the assault and rape by Officer Riley, Ms. Wachob testified:

Once she was assaulted, I think that the impact that it had, at least in the short term in which I continued to work with her, was that it—in spite of all the work, in spite of saying no, in spite of feeling

more strong about it, once again she was violated. Only this time, because she was—had done such good work around beginning to really experience those feelings and to work with them, her perceptions were really much more heightened than they had been—so, so this in fact took on a different level of trauma. It added significantly to what had been somewhat resolved.

41. Ms. Gelfant developed gastritis and required extremely large quantities of medication as a result of Officer Riley's attacks. As a result of her anxiety and hyper-vigilance arising out of the rape trauma syndrome, Ms. Gelfant took very large quantities of narcotic analgesics and other drugs to control the pain from the gastritis. She also had diagnostic procedures performed.

*7 42. Ms. Gelfant remains psychologically disabled from gainful employment and is likely to remain so for the immediate future.

43. Ms. Gelfant will require psychotherapy at the rate of 2.5 visits per week for the next six years.

44. As a result of the sexual assaults and rape by Officer Riley, Ms. Gelfant has suffered, and will suffer in the future, severe pain and suffering.

45. The reasonable value of the pain and suffering that Ms. Gelfant has had to undergo in the past and will undergo in the future is \$300,000.00. The court places a reasonable value of \$75,000 for each of the three incidents of rape or sexual assault. The court further values the pain and suffering from the rape trauma syndrome at \$75,000.

CONCLUSIONS OF LAW

This court has jurisdiction over the parties and the subject matter of this action.

Officer Riley

The test of causation in state causes of action is whether the injury is a substantial factor in bringing about the damage or harm.

A legal cause of injury, damage, loss or harm is *a* cause which is *a* substantial factor in bringing about the injury, damage, loss or harm. (Emphasis added.) [B.A.J.I. § 3.76]

Officer Riley assaulted and battered Ms. Gelfant on January 6 and 7, 1989, in that he restrained her movements, touched her against her desires, held her, stuck his penis into her mouth and raped her.

A battery is any intentional, unlawful and harmful or offensive contact by one person with the person of another.

The intent necessary to constitute battery is not an intent to cause harm, but an intent to do the act which causes the harm. [B.A.J.I. § 7.51]

As a result of the battery of Ms. Gelfant by Officer Riley, Ms. Gelfant suffered bodily harm and is entitled to recover damages.

A plaintiff who suffered any bodily harm as a legal result of a battery committed upon him by a defendant is entitled to recover damages for such injury from that defendant. [B.A.J.I. § 7.50, 1991 rev.]

Officer Riley's acts, including but not limited to the following: (1) restraining her on the couch; (2) taking out his firearm; (3) pushing her down on the floor; (4) climbing on top of her; and (5) leaving his brother outside with the implied threat that Ms. Gelfant could not flee, all constituted an unlawful violation of the personal liberty of Ms. Gelfant.

False imprisonment is the unlawful violation of the personal liberty of another. To constitute a false imprisonment there must be an intentional and unlawful restraint, confinement or detention which compels the person to stay or go somewhere against his will. The restraint necessary to constitute false imprisonment may result either from the exercise of force or from an express or implied threat of force. It is not necessary to constitute false imprisonment that there be confinement in a jail or prison.

A party who authorizes, encourages, directs or assists an officer to do an unlawful act, or procures an unlawful arrest, without process, is liable for damages caused thereby.

*8 [B.A.J.I. § 7.60]

Ms. Gelfant is entitled to recover damages for intentional infliction of emotional distress because Officer Riley perpetrated sexual assaults and rape upon Ms. Gelfant, despite her verbally and physically expressed desires that he not do so and with the intentional and reckless disregard of causing the emotional distress to Ms. Gelfant. Officer Riley's conduct is outrageous and unprivileged and caused the physical and psychological damages described in the findings of facts.

A plaintiff is entitled to recover damages for severe emotional distress if a legal cause of such emotional distress was the outrageous unprivileged conduct of the defendant done either with the intent to cause emotional distress or with reckless disregard of the probability of causing such emotional distress.

The elements of a cause of action for intentional infliction of severe emotional distress are:

1. The defendant engaged in outrageous, unprivileged conduct;
2. With the intent to cause, or with reckless disregard of the probability of causing emotional distress;
3. The plaintiff suffered severe emotional distress; and
4. Such outrageous, unprivileged conduct of the defendant was a legal cause of the emotional distress suffered by the plaintiff.

[B.A.J.I. § 12.70]

Officer Riley's actions were undertaken under color of state authority.

The sexual assaults committed by Officer Riley arose from a misuse of official authority.

“[t]he rape arose from misuse of official authority ...” (*Mary M. v. City of Los Angeles*, 54 Cal.3d 202, 221 (1991).)

The sexual assaults committed by Officer Riley were a deviation from his lawful duties, but when viewed in the totality of the circumstances of his employment as a police officer and his actions, they were committed in the course and scope of his employment by the City of Oakland because he used his identity as a police officer to gain entry to Ms. Gelfant's apartment. He further used his status as a police officer to create fear in his victim and to gain re-entry to Ms. Gelfant's apartment.

Color of Law

Officer Riley acted under color of state law, in that he exercised power possessed by virtue of state law and made possible only because he was clothed with the authority of state law.

Officer Riley used his governmental position to exert influence and physical control over Ms. Gelfant in order to sexually assault and rape her.

Officer Riley acted under color of law by abusing the official position given to him by the state.

City of Oakland

The City may only be held vicariously liable when a police officer on duty misuses his official authority and commits an act of rape. *Mary M.*, *supra*, 54 Cal.3d at 202.

This does not mean that, as a matter of law, the City is vicariously liable whenever an on-duty officer commits a sexual assault. *Mary M.*, *supra*, 54 Cal.3d at 211.

Under California law, respondeat superior liability will be found when: (1) the officer is on-duty (or if he is off-duty, he announces his status and intention to arrest pursuant to his authority to arrest when off-duty); and (2) the officer misuses his official authority to commit the sexual assault. Officer Riley was off-duty on January 6 and 7 but announced his status as a police officer to cause Ms. Gelfant to open her door at the request of a police officer or to suffer the consequences of disobeying a police order. The police order by defendant Riley caused Ms. Gelfant to

give him access to her apartment where the sexual assaults and rape occurred.

*9 In each entry to Ms. Gelfant's home, defendant Riley used his status as a police officer and ordered Ms. Gelfant to open the door. These actions fulfill the requirement of respondeat superior under California law, specifically, the analysis stated by the court in *Mary M.*, *supra*.

Ms. Gelfant has proven her allegations that Officer Riley acted within the course and scope of his employment and that he relied upon, then misused, his official status to gain entry to Ms. Gelfant's apartment, frighten and threaten her, which resulted in the events of January 5, 6 and 7, 1989, as detailed in the findings of fact 1–15.

Ms. Gelfant has proved that defendant Riley, who was off-duty and in civilian clothes on two of the days in question, acted within the course and scope of his employment on January 5, 6 and 7, 1989. Each time defendant Riley gained access to Ms. Gelfant's home, he did so by using his police authority even though he was off-duty. Therefore, Ms. Gelfant is able to recover from defendant City for the acts which occurred on those dates as described in findings of fact 1–14.

The essential elements of actionable negligence as alleged against the City of Oakland in Ms. Gelfant's fifth cause of action have not been proven because Ms. Gelfant did not prove that the defendant City of Oakland committed an act or omission constituting a breach of any duty it had to Ms. Gelfant. *United States Liability Insurance Co. v. Haidinger-Hayes, Inc.*, 1 Cal.3d 586, 594 (1970).

Ms. Gelfant's failure to affirmatively link any specific act or omission by the City is fatal to her recovery. *Means v. Southern California Ry. Co.*, 144 Cal. 473, 478 (1904); see *Hutchinson v. Southern California First National Bank*, 27 Cal.App.3d 572, 579–80 (1972).

Ms. Gelfant has not proved that the City breached any duty to Ms. Gelfant by hiring Officer Riley in 1982.

Ms. Gelfant has not proved that the hiring of Officer Riley in 1982 proximately caused the events and injury alleged by Ms. Gelfant.

Ms. Gelfant has not proven that her injuries were caused by a City policy, custom, or procedure. Ms. Gelfant has

not proven that a pattern and practice of the Oakland Police Department or the reasonable inference of a custom led to her injuries.

Ms. Gelfant failed to prove that a particular training program is inadequate to the tasks which must be performed by an officer.

Ms. Gelfant failed to prove that an alleged inadequate training program amounts to “deliberate indifference” to the rights of persons with whom the police came into contact.

Ms. Gelfant failed to prove that the alleged inadequate training program and City policy proximately caused her injuries.

Ms. Gelfant has not proven that the City had alternative choices, failed to take them, and that such failure proximately caused her alleged injuries. See *Monell v. Department of Social Services of the City of New York*, 436 U.S. 658 (1978); *Owen v. City of Independence*, 475 U.S. 469, 478 (1980); *City of Oklahoma City v. Tuttle*, 471 U.S. 808, 824–825, 105 S.Ct. 2427 (1985); *Polk v. County of Dodson*, 454 U.S. 312, 102 S.Ct. 445, 70 L.Ed. 509 (1981); *Pembaur v. Cincinnati*, *supra*; *Kirkpatrick v. City of Los Angeles*, 803 F.2d 485, 491 (9th Cir.1986); *City of Canton v. Harris*, 489 U.S. 378, 109 S.Ct. 1197, 1202–06 (1986).

Damages

*10 1. Plaintiff **Nina Gelfant** is entitled to damages from Officer Bernard Riley and the City of Oakland for past and future medical expenses, past and future wage loss and loss of earning capacity, future expenses for schooling, and general damages for pain, suffering and humiliation in the amount of \$572,309.00.

2. Officer Bernard Riley acted with reckless and callous disregard and indifference to Ms. Gelfant's constitutional rights, and Ms. Gelfant is entitled to recover punitive damages from him in the amount of \$250,000.00.

CONCLUSION

For the foregoing reasons, the court enters judgment in favor of plaintiff and against defendants. The court further finds that plaintiff is entitled to collect an award of punitive damages from defendant Officer Riley.

IT IS SO ORDERED.

All Citations

Not Reported in F.Supp., 1993 WL 172290