

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS, SPRINGFIELD DIVISION**

JERRY L. JOYNER,)	
)	
Plaintiff,)	
)	
v.)	No. 06-3062
)	
KENNETH CRIPE,)	
)	
Defendant.)	

OPINION

BYRON G. CUDMORE, U.S. MAGISTRATE JUDGE:

In a ruling from the bench on October 1, 2008, the Court denied, in part Defendant Cripe’s Motion for Judgment as a Matter of Law (d/e 62). The Court reserved ruling on the portion of the motion that addressed the availability of punitive damages. After careful consideration, the Court allows Defendant’s request for judgment as a matter of law on the issue of punitive damages.

It is well-established that punitive damages are available in cases brought under 42 U.S.C. § 1983 only upon a showing of “evil motive or intent, or . . . reckless or callous indifference to the federally protected rights of others.” Smith v. Wade, 461 U.S. 30, 56 (1983). Plaintiff failed to produce evidence to support a verdict in his favor on this issue. Therefore, Defendant’s request for judgment as a matter of law on the question of

punitive damages is allowed. This ruling necessitates changes to the jury instructions as follows. The Court withdraws Court's Instruction 6, the punitive damages instruction, and it will not be given. The Court has revised the verdict forms to delete reference to punitive damages. The revised verdict forms, labeled Court's Instructions 15 through 18, will be given. The previous versions of the verdict forms, Court's Instructions 7 through 10, are withdrawn.

Additionally, because Plaintiff's Group Ex. 1 was admitted for a limited purpose, the Court believes that a limiting instruction based on Seventh Circuit Pattern Instruction 1.09 is appropriate. Such an instruction has been labeled Court's Instruction 14 and will be given.

THEREFORE, Defendant Cripe's Motion for Judgment as a Matter of Law (d/e 62) is ALLOWED, in part, and DENIED, in part, for reasons stated of record and set forth in this opinion. Defendant is granted judgment as a matter of law on Plaintiff's request for punitive damages. The Motion is denied in all other respects.

IT IS THEREFORE SO ORDERED.

ENTER: October 2, 2008

s/ Byron G. Cudmore

BYRON G. CUDMORE
UNITED STATE MAGISTRATE JUDGE