

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
Civil Action No. 08-1278

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In Regard to the Matter of:

Bayside State Prison  
Litigation

OPINION/REPORT  
OF THE  
SPECIAL MASTER

ROBERT CARMINE MELONI

-vs-

WILLIAM H. FAUVER, et al,  
Defendants.

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\* \* \* \*

THURSDAY, AUGUST 13, 2009

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BEFORE THE HONORABLE JOHN W. BISSELL, SPECIAL MASTER

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Transcript of proceedings in the above  
matter taken by Theresa O. Mastroianni, Certified  
Court Reporter, license number 30X100085700, and  
Notary Public of the State of New Jersey at the  
United States District Court House, One Gerry Plaza,  
Camden, New Jersey, 08102, commencing at 2:55 PM.

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A P P E A R A N C E S :

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1 JUDGE BISSELL: I'm reopening  
2 proceedings in the matter of Robert Meloni, docket  
3 number 08-1278.

4 This opinion/report is being issued  
5 pursuant to the directives of the Order of Reference  
6 to a Special Master and the Special Master's  
7 Agreement and the guiding principles of law which  
8 underlie this decision to be applied to the facts  
9 upon which it is based as set forth in the jury  
10 instructions in the Walker and Mejias jury charges to  
11 the extent applicable to the allegations of Mr.  
12 Meloni.

13 As finalized after review under Local  
14 Civil Rule 52.1, this transcript will constitute the  
15 written report required under paragraph seven of the  
16 Order of Reference to a Special Master.

17 Mr. Meloni testified at some length to  
18 an event which supposedly happened to him while being  
19 extracted from the Farm where he was residing in one  
20 of the barracks. Among other places that testimony  
21 is presented at some length at pages 15 through 21 of  
22 the transcript of March 11, 2009.

23 I will review the testimony as follows:  
24 He testified that on this occasion there was noise  
25 taking place in the barracks, among other things,

1 baiting of Corrections Officer Crowe who was in  
2 charge of those barracks behind his back, although  
3 within his hearing, and that at one point Officer  
4 Crowe had enough of it. For some reason or other,  
5 Crowe singled out Mr. Meloni for no reason because  
6 there had been others that were disruptive rather  
7 than he. But he nevertheless did so and Mr. Meloni's  
8 further testimony was that the next thing he knew the  
9 cops came, persons in the riot gear, pulled him off  
10 of his bunk, that he was beaten in various ways as  
11 described in that testimony, both on the way to and  
12 at Farm Center where this particular unit delivered  
13 him, that after that he was herded onto the bus that  
14 was going up to the main compound where he was  
15 delivered into B Unit. He states that this was a  
16 second group of officers that took him up there and  
17 that his head was smashed into a door in order to  
18 open it and that he was thrown down steps and  
19 subjected to further beatings.

20 In the concluding portions of these  
21 events as he described them, we find the following  
22 description beginning at line 13 on page 19 of the  
23 transcript, referring to events that are happening to  
24 him in B Unit.

25 "Answer: As that is happening, he's

1 shouting obscenities at me and I got this other  
2 officer kneeling me -- as that is happening, I have an  
3 officer on the right kneeling me in these ribs and I'm  
4 not going to be able to take that. Then he starts  
5 yelling at me. And the next thing you know he comes  
6 down with a fist and breaks my nose. My nose just  
7 splats. I heard it crack. It's still broke. Now I  
8 have blood coming out. Now I'm on the ground, on the  
9 floor in the cell. I can't breathe, I can't move. I  
10 couldn't get up to go to the bathroom for a couple  
11 days. And then they unhandcuffed, unshackled me, and  
12 left. It frightened me. That was the beginning  
13 right there.

14 "Question: What happened to you next?

15 "Answer: Next, you know, I laid on the  
16 floor bleeding. And I was asking for medical  
17 attention. I didn't get no medical attention. I got  
18 threatened. For the next couple days I heard people  
19 getting beaten, blood -- this is in front of my cell  
20 because I was on the floor. And somebody was getting  
21 beaten right outside my cell and I seen the blood  
22 coming up under my floor. I said something, they  
23 opened the door and asked me if I wanted another  
24 beating. I couldn't handle another beating. I was  
25 so scared that I wished they would kill me, this way

1 I wouldn't feel the pain no more. That's how scared  
2 I was. I didn't want to get beat any more. I  
3 thought I was going to die as it was."

4 And that concludes at page 20 line 17.

5 I find frankly, however, that that is  
6 not what happened. Officer Crowe testified before us  
7 here and I found his testimony in that respect  
8 considerably more credible. He stated that Mr.  
9 Meloni was leaving his bed area in the barracks  
10 wandering around throughout the barracks swatting  
11 flies, that he disobeyed both warnings and orders to  
12 cease and to return to his bunk area. I find that  
13 there certainly was a legitimate purpose for keeping  
14 the inmates in this open barracks in the immediate  
15 vicinity of their bunks during a lockdown procedure  
16 in order to be able to enforce this lockdown and the  
17 necessary supervision of the prisoners to the fullest  
18 extent possible given these open barracks.

19 I find that Officer Crowe as a result  
20 of this called Center for assistance and that Center  
21 dispatched the Bayside officers assigned to compound  
22 patrol, to wit the Farm, to remove Mr. Meloni to Farm  
23 Center.

24 I find that they did so without  
25 incident as testified to by Officer Hughes and as

1 reflected in his contemporaneous report, D-634.

2 In the course of this removal and in  
3 all likelihood shortly thereafter when he was able to  
4 return to his other administrative duties, Officer  
5 Crowe executed the disciplinary charges of D-632 and  
6 633 to reflect the two charges: One for conduct  
7 which disrupts or interferes with the orderly running  
8 of an institution, namely the activities that Mr.  
9 Meloni was engaged in away from his bunk area, and,  
10 two, for refusing to obey an order of Officer Crowe  
11 that he cease and desist from doing that and remain  
12 in his bunk area. Those exhibits are in evidence and  
13 their contents are self-explanatory. I find that  
14 they are both accurate and credible.

15 At the Center, Mr. Meloni was handed  
16 off to the Bayside Prisoner Response Team. He  
17 characterized these people as being SOG officers, but  
18 they were not, even though that confusion is well  
19 understood because they also were dressed in riot  
20 gear in a position to appear as if they were SOG  
21 officers.

22 I do want to make one modification. I  
23 don't know if the record is clear here as to whether  
24 the compound patrol which took him from the barracks  
25 to Farm Center was dressed in riot gear or not. I



1 don't believe it's significant, I just didn't want to  
2 make a finding that wasn't supported in the record.  
3 But in any event, the Bayside Prisoner Response Team,  
4 as was customary, were in that riot gear.

5           This, of course, occurred on the third  
6 of August of '97 and by 8:15 PM they had arrived at B  
7 Unit. Sergeant Plummer on duty in B Unit made note  
8 of the fact that Mr. Meloni was logged in from the  
9 Farm at that time. That appears in Exhibit D-199 and  
10 also in a separate log indicating that he came in  
11 from the Farm, D-469.

12           Officer Plummer described the standard  
13 operating procedure for intake at B Unit when he was  
14 the housing officer on that occasion. He testified  
15 that there was no incident like that which Mr. Meloni  
16 described and had never been confronted with an  
17 incident such as that there. He did acknowledge that  
18 he was not in the cell areas as a normal part of his  
19 duties, but the thought or the prospect that somehow  
20 or other Mr. Meloni could lie naked, defecating in  
21 his cell for the better part of two days with no  
22 attention to him whatsoever was just not inherently  
23 credible and something that surely the Bayside  
24 officers would have noticed and dealt with, even if  
25 it had been the case at the outset.

1           Officer Plummer also testified (and I  
2 think tellingly for my purposes) that prisoners, upon  
3 being brought to B Unit from elsewhere, were  
4 strip-searched on entry into B Unit in an area close  
5 to that entering or common area and then were  
6 reclothed before going to the cells. Certainly this  
7 makes a great deal more inherent sense.

8           What I find here is, frankly, that Mr.  
9 Meloni fabricated these events. There was too much  
10 competent evidence to the contrary particularly  
11 regarding the charges written up and acted upon and  
12 also the procedures for handling prisoners throughout  
13 this journey that just does not support Mr. Meloni's  
14 view.

15           While I'm no psychologist, I think I  
16 can draw the appropriate inference that Mr. Meloni  
17 was angered at being taken out of these barracks  
18 where living circumstances were really fairly  
19 relaxed, perhaps angered that he was taken out for a  
20 trivial event, rather than something more serious,  
21 and put basically in the hole, that is, B Unit, and  
22 had disciplinary charges lodged against him. And as  
23 a result of that anger and resentment has lashed back  
24 with this fabricated story.

25           Finally, although not every item of

1 evidence has been discussed in this opinion/report,  
2 all evidence presented to the Special Master was  
3 reviewed and considered. For the reasons set forth  
4 above, I recommend in this report that the district  
5 court enter an order and judgment of no cause for  
6 action with regard to Robert Meloni.

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I, Theresa O. Mastroianni, a Notary Public and Certified Shorthand Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place, and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

*Theresa O. Mastroianni*  
Theresa O. Mastroianni, C.S.R.  
Notary Public, State of New Jersey  
My Commission Expires May 5, 2010  
Certificate No. XI0857  
Date: September 14, 2009

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