



01/29/93 Donald J. Hatch

1993 | Cited 0 times | D.C. Circuit | January 29, 1993

official capacity as Administrator, Occoquan Facility I & II, et al.

Rules of the District of Columbia Circuit Court of Appeals may limit citation of unpublished opinions. Please refer to the Rules of the United States Court of Appeals for this Circuit.

APPELLATE PANEL:

PER CURIAM DECISION

Upon consideration of the motion for summary affirmance and the response thereto, it is

ORDERED that the motion for summary affirmance be denied. It is

FURTHER ORDERED, on the court's own motion, that the district court's January 10, 1992 order denying reconsideration be vacated and the case remanded to the district court for the further proceedings consistent with this order. We think the district court misconstrued this court's initial remand order as one which "remanded this case for consideration solely of plaintiff's dental complaints, not for consideration of damages or any other issue." Dec. 4, 1991 District Court Memorandum Opinion and Order at 1. In our view, the initial remand order was intended to direct the district court to determine whether the prison officials were deliberately indifferent to Hatch's need for dental care in violation of his constitutional rights when, in 1987, they denied him an allegedly necessary root canal. If the court determines that there is a constitutional violation, then it must determine whether Hatch is entitled to compensatory and punitive damages. See *Memphis Community School Dist. v. Stachura*, 477 U.S. 299, 307 (1986) ("the basic purpose of § 1983 damages is to compensate persons for injuries that are caused by the deprivation of constitutional rights") (internal quotations and emphasis deleted); *Doe v. District of Columbia*, 225 U.S. App. D.C. 225, 697 F.2d 1115, 1124 (D.C. Cir. 1983) ("plaintiffs are entitled to compensation for any physical injuries, pain and suffering, [and] emotional distress . . . proximately caused by the defendants' unconstitutional conduct"). See also *Smith v. Wade*, 461 U.S. 30, 51 (1983) (punitive damages available in § 1983 case upon showing of requisite willful and malicious intent); *Warren v. Fanning*, 950 F.2d 1370, 1374 (8th Cir. 1991) ("The jury is required to award nominal damages once it has found cruel and unusual punishment if it has not been able to convert into dollars the injury and pain plaintiff has suffered.") (internal quotations and brackets omitted), cert. denied, 121 L. Ed. 2d 68, 113 S. Ct. 111 (1992). As the district court did not consider these issues, we find that it was beyond the district court's discretion to conclude, on reconsideration, that it had "complied with the [initial remand]



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order of the Court of Appeals." Jan. 10, 1992 District Court Memorandum Opinion and Order at 1.

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. See D.C. Cir. Rule 15.

PER CURIAM DECISION

