

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF MASSACHUSETTS  
3

4 \* \* \* \* \*  
5 JASON DAVIS,

6 Plaintiff

7 vs.

8 PAUL RENNIE, LOUIS VALENTINE,  
9 RICHARD GILLIS, MICHAEL HANLON,  
10 JEFFREY FLOWERS, LEONARD FITZPATRICK,  
11 NICHOLAS L. TASSONE, FRANTZ JOSEPH,  
12 PHILLIP BRAGG, JOYCE WEIGERS,  
13 EDWARD M. MURPHY, EILEEN P. ELIAS,  
14 ALAN J. ZAMPINI, ALFRED CHAPUT AND  
15 MARYLOU SUDDERS, In Her Capacity As  
16 Commissioner of the Department of  
17 Mental Health,

18 Defendants

19 \* \* \* \* \*

20 DEPOSITION OF NICHOLAS L. TASSONE, a  
21 witness called on behalf of the Plaintiff,  
22 pursuant to the applicable provisions of the  
23 Massachusetts Rules of Civil Procedure, before  
24 Melissa R. McKenzie, Shorthand Reporter and  
Notary Public in and for the Commonwealth of  
Massachusetts, at the offices of Brendan J.  
Perry & Associates, 95 Elm Street, Holliston,  
Massachusetts, on Wednesday, March 19, 1997,  
commencing at 10:02 P.M.

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1 A. Yes.

2 Q. You said before that as a result of reporting  
3 abuse, you had your tires slashed, your  
4 windshield broken?

5 A. Yes.

6 Q. You said that you had threatening phone calls  
7 placed to you threatening your person?

8 A. Yes.

9 Q. So it's fair to say that there's somewhat of a  
10 code of silence expected among the mental health  
11 care workers at Westborough State Hospital about  
12 observations of abuse by fellow workers?

13 MR. PATTEN: Objection. You may  
14 answer.

15 A. Some.

16 Q. So at least in relation to some of them, there's  
17 expected to be a code of silence; that is to  
18 say, if you see a fellow employee doing bad  
19 things or wrong things, you're not supposed to  
20 report it, and you're supposed to look the other  
21 way because we're all in this thing together?

22 MR. PATTEN: Objection. You may  
23 answer.

24 A. Yes.

1 Q. Does it feel good to come here and finally tell  
2 the truth?

3 A. Yes.

4 Q. And is that because you were fond of Jason  
5 Davis?

6 A. It's because since then, I went back to church,  
7 and I try to do everything in the way that --

8 Q. Are you catholic?

9 A. Yes. And I'm trying to be a deacon and get  
10 involved. I couldn't live with something like  
11 this, and I was fond of Jason Davis.

12 Q. Do you go to St. Mary's Church?

13 A. Fatima Shrine.

14 Q. So since that point in time, have you thought  
15 about this incident from time to time?

16 A. Yes.

17 Q. Did you hear Jason Davis say anything when he  
18 was on the ground?

19 A. No.

20 Q. Did you hear him scream for help?

21 A. It was so chaotic. I really couldn't tell you  
22 to be honest with you.

23 Q. Did you ever have any conversations with any of  
24 the people there that day about what happened to

1 Jason Davis?

2 A. I don't recall.

3 Q. I'm going to show you three exhibits marked 2,  
4 3, and 4?

5 (Exhibit Nos. 2, 3, 4 marked for  
6 identification.)

7 Q. I'm going to show you Exhibits 2, 3 and 4, which  
8 are a series of pictures of Jason Davis that  
9 I'll represent to you were taken on August 12  
10 and August 13, 1993. And I'll start with  
11 Exhibit 2, and ask you if you can identify the  
12 person in that photograph?

13 MR. PATTEN: Do you recognize him?

14 A. It's been such a long time. Yeah. It's hard to  
15 really recognize him.

16 Q. Do you recognize though that that is Jason  
17 Davis?

18 A. No. I can't remember. These are bad pictures  
19 of Jason.

20 Q. Let me show you Exhibit No. 4, and see if that  
21 will help you a little bit?

22 A. Yeah.

23 Q. Do you recognize that?

24 A. Yes.

- 1 Q. You recognize -- strike the question. Is the  
2 depiction of his face consistent with what you  
3 observed on August 12, 1993?
- 4 A. No. When I saw Jason Davis, he was bleeding.
- 5 Q. Profusely?
- 6 A. Yes.
- 7 Q. And fair to say that there was a puddle of blood  
8 on the floor outside of the quiet room?
- 9 A. Yes.
- 10 Q. How big was that puddle of blood?
- 11 A. I really don't recall.
- 12 Q. But there was a puddle of blood?
- 13 A. Yes.
- 14 Q. And there was also a puddle of blood in the  
15 restraint room on the mattress?
- 16 A. I don't recall that.
- 17 Q. Can you approximate for us the size of the  
18 puddle of blood outside of the quiet room?
- 19 A. No, I really couldn't.
- 20 Q. When you saw his face, there was a lot more  
21 blood on his face than there is in Exhibit Nos.  
22 2, 3, and 4; right?
- 23 A. Yes.
- 24 Q. His face has been cleaned up here somewhat?

1 A. Yes.

2 Q. So describe for us the amount of blood on his  
3 face when you saw his face after the attack?

4 A. He looked like a fighter who had just come out  
5 of a ring.

6 Q. Fair to say he looked like he went about ten  
7 rounds with Mohammed Ali?

8 MR. PATTEN: Objection. You may  
9 answer, if you can.

10 Q. Fair to say that his face was pummeled after the  
11 incident?

12 A. Yes.

13 Q. Fair to say that his face was cut and covered in  
14 blood?

15 A. Yes.

16 Q. And fair to say that there was a puddle of blood  
17 on the floor outside of the quiet room?

18 A. Yes.

19 Q. And fair to say that Jason Davis had blood on  
20 his clothes?

21 A. I don't recall.

22 Q. You just said he looked like he was a fighter.  
23 Describe, if you can, specifically the condition  
24 of his face?

1 A. Well, you know, like a fighter looks after they  
2 get out of the ring, how sometimes they get cut  
3 on their eye, and they have blood dripping down  
4 their face.

5 Q. He didn't receive any of these injuries from the  
6 take down, did he?

7 A. No.

8 Q. He received all of these injuries from the  
9 physical abuse exacted upon him by Phillip  
10 Bragg, didn't he?

11 A. I can't say for sure, but he was not this way  
12 during the take down.

13 Q. He was not that way during the take down?

14 A. No.

15 Q. And did you have occasion to observe his face  
16 before the take down?

17 A. Yes.

18 Q. He didn't look like that before the take down?

19 A. No.

20 Q. You said in your statement to Mr. Pickett that  
21 you were certain that Mr. Davis did not suffer  
22 any injuries during the take down. How were you  
23 certain of that fact, the take down itself?

24 A. I was in charge of the take down, and I know the

1 staff that were on the take down with me. I've  
2 worked with them many times before, and we're  
3 taught and I teach them all the time on take  
4 downs how we restrain. How much pressure you  
5 add, how much pressure you don't add, where you  
6 touch and where you don't touch them.

7 Q. Let me go back for a second. Who was on his  
8 arms?

9 A. Paul Rennie and I.

10 Q. Which arm were you on?

11 A. The left arm.

12 Q. Paul Rennie was on his right arm?

13 A. Yes.

14 Q. Was Paul Rennie facing towards his head?

15 A. Paul Rennie was facing towards me.

16 Q. Facing towards you?

17 A. Paul Rennie's back was up against the wall on  
18 the outside of the room. There's a little --  
19 between doors there's about this much of a  
20 wall. Paul Rennie was right there against that  
21 wall.

22 Q. Did Paul Rennie have a view towards Jason Davis'  
23 head?

24 A. No.



1 Q. Who there that day had a view towards Jason  
2 Davis' head?

3 A. I don't think anybody because the take down was  
4 so critical that I think that everyone was -- I  
5 was looking that they were in the right  
6 position. The biggest thing with take downs is  
7 patient safety and patient care. That works  
8 both ways.

9 We want to make sure that the  
10 patient -- that we don't get hurt either. So we  
11 make sure that we have everybody in the right  
12 way, that way he can't shake loose to hit  
13 somebody else. Everybody was watching from the  
14 waist down. I had one arm. Paul had the  
15 other. We were secure. Even though Paul took  
16 some real shots, he never let go.

17 Q. Did you observe the special state police officer  
18 when he first came on the scene?

19 A. No.

20 Q. Did you hear the punches?

21 A. No. You don't realize how chaotic this was.  
22 There was a lot of things going on.

23 MR. PATTEN: Mr. Perry will ask you  
24 another question.

- 1 Q. Was there a lot of swelling around his eye  
2 area? Were his eyes closed after the assault  
3 and pummeling?
- 4 A. I don't recall. I just seen the blood.
- 5 Q. Did you observe any other puddles of blood?
- 6 A. No, not that I can recall.
- 7 Q. Did you observe any other blood on his clothes?
- 8 A. Not that I can recall.
- 9 Q. Did you then go into the restraint room with  
10 Mr. Davis?
- 11 A. I'm trying to think of that. I don't think so.  
12 I don't know for sure.
- 13 Q. Was there a written order -- strike the  
14 question. Were you ever made aware of the fact  
15 that documentation had been completed to  
16 effectuate the physical restraint?
- 17 A. I don't know, but I know that the doctor was  
18 right on the unit while this was taking place.  
19 I don't know for sure. Because I know that  
20 procedure is that it would be done right then  
21 and there.
- 22 Q. Has anybody else come to you and told you that  
23 they wanted to report this incident but were  
24 afraid to report it also?

ATTACH TO DEPOSITION OF: Nicholas L. Tassone  
CASE: Davis v. Rennie, et al.

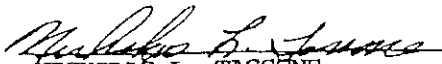
ERRATA SHEET

INSTRUCTIONS: After reading the transcript of your deposition, note any change or correction to your testimony and the reason therefor on this sheet. DO NOT make any marks or notations on the transcript volume itself. Sign and date this errata sheet. Refer to Page 79 of the transcript for errata sheet distribution instructions.

PAGE LINE

<u>4</u> <u>23</u>	CHANGE: <u>- NO. Nov. of '85</u>
	REASON: <u>Was thinking of Westborough, NOT Medfield</u>
	CHANGE: _____
	REASON: _____
<u>5</u> <u>2</u>	CHANGE: <u>NO. Jan. of '95</u>
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I have read the foregoing transcript of my deposition and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statements made by me.

  
NICHOLAS L. TASSONE