



# Commander's Log

LEGAL UPDATE FOR MARYLAND CORRECTIONAL  
ADMINISTRATORS AND OFFICERS

January 2018

## Use of Pepper Spray in Correctional Facilities

**Case:** *James Alphonzo Reid v. Secretary, Dept. of Public Safety and Correctional Svcs., et al.*  
**U.S. District Court (District of Md.)**  
**Decided December 19, 2017**  
**(Unpublished)**

### The Prisoner's Lawsuit

James Alphonzo Reid is an inmate at the North Branch Correctional Institution in Cumberland, Maryland. He filed suit in federal court after being stabbed in prison. In his lawsuit, Reid essentially claimed that officers failed to protect him and used excessive force against him. He alleged that, on June 21, 2016, he was eating dinner in prison chow hall #1 when a security code was called. Officers G. Ullery and J. Yailder, who were supervising chow hall, ran out to assist with the code. According to Reid, Ullery and Yailder left the chow hall and closed the doors for about five minutes. Ullery and Yailder then returned, opened the doors, and stood outside the chow hall. Seemingly out of nowhere, another inmate ran up behind Reid and stabbed him in his neck, back, armpits, and arm. To protect himself, Reid grabbed a meal tray from the table and swung it at his assailant. Then, and again

according to Reid, he defended himself against the attack for about three minutes before one of the officers intervened and ordered him to the ground. Reid refused because he was afraid that the other inmate would continue his attack. Instead, Reid claimed that he put his hands in the air, slowly turned to face the officers, and told them he was the victim, not the attacker. He further claimed that he was then pepper sprayed by Officer Ullery.

In his lawsuit, Reid contended that the officer should have been in the chow hall supervising inmates when the attack occurred. He also claimed that, by using pepper spray, the officers placed him in greater danger because the inmate who stabbed him had not been subdued. Finally, Reid suggested that the attack, which he claims was gang related, could have been avoided if he and other members of his prison gang had been held in segregation after an earlier attack.

As a result of the incident, Reid was charged with several administrative violations, and placed in administrative segregation. He alleged that the officers wrote false reports that led to his segregation. A hearing officer later found him not guilty of the charges.



### The Officers' Defense

The officers and other defendants submitted numerous exhibits in their defense, including a DVD recording of the event. The officers' affidavits stated that they had no prior knowledge that a fight was going to occur, and that Reid's enemy list contained no known enemies prior to the attack. The officers stated that they were in the chow hall when the fight started and that they responded immediately to break it up. Officer Yailder called the Master Control Tower for assistance ("10-10 code") and Officer Ullery ordered the inmates to stop fighting. Neither complied. Officer Ullery then sprayed Reid, the inmate in the altercation nearest to him, with one short burst of pepper spray. Reid then complied, laid on the floor, and was handcuffed.

The other inmate, Bobby Arnold, refused to stop fighting and began fighting with Larmar Sampson, another inmate. Officer Ullery ordered them to stop but they refused. As other officers arrived, Officer Yailder deployed pepper spray into Sampson's face when he ignored repeated commands to stop fighting. Sampson then complied. Another officer pepper sprayed Arnold, who was then placed in hand restraints. Reid, Sampson, and Arnold were taken to the medical unit. Reid was later transported to the hospital for treatment of his wounds. He was released to the prison infirmary several hours later. All three inmates were placed in administrative segregation pending their adjustment hearings. The officers denied that their reports were false or in any way misleading. A review of the video footage established that the correctional staff had acted in accordance with policies and procedures.

### The Court's Ruling

Upon reviewing the defendants' motion seeking dismissal or summary judgment, the court concluded that Reid's lawsuit lacked any merit. The court first observed that the use of pepper spray or tear gas in correctional facilities is closely scrutinized because of the inherently dangerous

characteristics of the chemicals involved. Thus, when reviewing excessive force claims involving the use of pepper spray or mace in the prison environment, it is necessary to examine the totality of the circumstances, including: (1) provocation; (2) the amount of gas used; (3) and the purpose for which the gas was used. And, although pepper spray or mace is constitutionally permitted in small quantities to control a recalcitrant inmate, its use in certain circumstances can be deemed to be excessive force. Those circumstances include the following: (1) when an officer uses far more than a reasonable quantity of a chemical agent; (2) where pepper spray was used without a prior verbal command; and (3) when officers pepper sprayed an inmate and then withheld medical treatment.

The court concluded that none of those circumstances were present in Reid's case. The entire event lasted less than three minutes. The DVD recording unquestionably corroborated the officers' version of the events and undermined Reid's. The single, short burst of pepper spray deployed against Reid was intended to gain control over the situation and restore safety and security. As soon as the situation was under control, Reid was escorted for medical attention. Further, the evidence established that the officers had no prior knowledge of any excessive threat to Reid's safety and quickly prepared to and did intervene in the fight once it began. Finally, the court found that Reid was given the full benefit of the prison disciplinary proceedings, and thus, was not denied due process.

**NOTE:** This case shows the importance of video recordings in the correctional setting. The court said that even if Reid had submitted a sworn affidavit offering his version of the events, the video evidence would have refuted it. When a video quite clearly contradicts the version of the story told by the plaintiff so that no reasonable jury would believe it, a court should not adopt the plaintiff's version of the facts for the purposes of ruling on a pretrial motion.



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