

The Alabama Jury Verdict Reporter

The Most Current and Complete Summary of Alabama Jury Verdicts

June, 2022

Statewide Jury Verdict Coverage - Published Monthly

22 A.J.V.R. 6

Alabama's Jury Verdict Reporter Since 2001

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Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts in Alabama including circuit, presiding judge, parties, case number, attorneys and results.

Medical Negligence - A man visited the hospital several times with symptoms of a stroke but was sent home each time; when the man later died of complications from the stroke, his estate blamed his death in part on the failure of a physician's assistant to admit the man to the hospital for prompt treatment

Estate of Porter v. Bautista, 18-900380

Plaintiff: Robert E. Lemoine,
Turnbull Holcomb & Lemoine, P.C.,
Birmingham

Defense: Rodney R. Cate, *Hand
Arendall Harrison Sale, LLC.*, Mobile

Verdict: Defense verdict

Circuit: **Baldwin**, 11-12-21

Judge: Jody W. Bishop

In the morning of 2-27-18, Melvin Porter suffered a fall at work. Porter didn't feel well after the fall, so he went to American Family Care Fairhope to have himself checked out. The staff at American Family told Porter he was having a stroke and that he should go to the ER.

In the early afternoon Porter presented at the South Baldwin Regional Medical Center where he came under the care of several medical professionals. They included physician's assistant Richard Bautista, an employee of South Baldwin.

Porter related his medical history to the staff at South Baldwin and displayed symptoms consistent with a stroke. Despite this, a CT scan of his head was read as showing "no acute intracranial abnormality."

Porter was told he most likely had suffered a transient ischemic attack – i.e., a "warning stroke" – and that he was in no immediate danger. Based on that assessment, the South

Baldwin staff (including Bautista) released Porter with no further treatment.

In the early evening of the following day, Porter again reported to South Baldwin with complaints of vision loss and other symptoms consistent with a stroke. A second CT scan was done that produced the same result as the first one. Thus, Porter was once again released.

A few days later on the morning of 3-3-18 Porter woke with symptoms of a stroke. He went to South Baldwin with complaints of facial numbness and difficulty walking. A third CT scan showed cerebral atrophy and chronic changes and prompted Porter to return to the ER.

Despite a worsening of Porter's symptoms, he received no further treatment or evaluation until an MRI that afternoon revealed "multifocal areas of acute ischemia." A fourth CT scan was done a couple of hours later and revealed deterioration as compared with the previous CT scans.

At that point Porter was intubated and transferred to Sacred Heart Hospital where he underwent numerous procedures and surgeries. He survived approximately nineteen more weeks but died of complications on 7-15-18.

Porter's estate filed suit against a number of the personnel and entities that had been involved in his care. The estate ultimately stipulated to the dismissal of all defendants except for Bautista. The estate criticized Bautista for failing to timely diagnose and treat Porter's condition.

More particularly, the estate

and disfigurement and another \$80,000 for lost income.

The verdict totaled \$725,000. The court entered a judgment for that amount, and the judgment has been satisfied.

Case Documents:

[Defense Summary Judgment Motion](#)
[Final Judgment/Jury Verdict](#)

Civil Rights - After going on a bender at the Rattlesnake Saloon and getting arrested on disorderly conduct charges, the plaintiff was housed at the local jail – he was placed in a restraint chair, and after asking to go to the bathroom and being ignored, he urinated on himself – the plaintiff alleged jail guards tasered and pepper-sprayed him in retaliation

Robbins v. Colbert County Jail,
3:20-1115

Plaintiff: Henry F. Sherrod, III,
Florence

Defense: J. Randall McNeill and
Joshua A. Willis, *Webb McNeill*
Walker, Montgomery, AL

Verdict: Defense verdict on liability
Federal: **Huntsville**, 5-11-22

Judge: Madeline H. Haikala

Matt Robbins was drinking on the evening of 8-3-18 at the Rattlesnake Saloon in Tuscumbia, AL. He was drunk. Robbins was so drunk, in fact, that he was arrested on drunk and disorderly conduct charges. Robbins was transported to the Colbert Count Jail.

Because of his intoxicated status, Robbins was placed in a restraint chair for his own protection. A short time later Robbins had to urinate, and he explained this to jailers. They ignored him. Robbins then proceeded to urinate on himself.

Robbins alleged that in retaliation a team of jailers consisting in Michael Williams, Josh Smith, and Michael Smith, engaged in excessive force. That included tasering

Robbins in the “stun mode” and pepper-spraying him. Robbins believed the jailers acted aggressively in retaliation for his having urinated on himself. Robbins was released from the jail the next day.

Based on this version of the facts, Robbins sued the deputy jailers and alleged their conduct (tasering and pepper-spraying him) represented excessive force. He also alleged that one or more of the defendants (he wasn’t sure which of them it was) had failed to intervene to protect him. The jury could award Robbins compensatory and punitive damages.

This theory was all based on Robbins’ version of events. The deputy jailers believed his version was wildly incorrect. In fact one of the defendants wasn’t even on duty at the time of the incident. What, then, had happened? The defense explained that Robbins was pepper-sprayed on the way to the jail and then tasered upon his arrival. This was because of his unruly behavior and was entirely reasonable. The defendants flatly denied abusing Robbins.

This case was tried for two days. The jury’s verdict was for the defendants on the excessive force counts, and Robbins took nothing. A defense judgment was entered.

Case Documents:

[Pretrial Order](#)
[Jury Verdict](#)

Auto Negligence - An elderly plaintiff claimed to have suffered a SLAP tear in a rear-end crash; defendant admitted fault for the crash but pointed to plaintiff’s delay and treatment and lengthy medical history as a basis for denying that the SLAP tear was caused by the crash

Mabrey v. Phillips, 19-901258

Plaintiff: Champ Lyons, III, *Champ Lyons, III, P.C.*, Birmingham

Defense: Amanda Graham, *Gaines Gault Hendrix, P.C.*, Birmingham

Verdict: Defense verdict

Circuit: **Shelby**, 4-26-22

Judge: Patrick E. Kennedy

On 1-4-18, William Mabrey, then age 70, was driving north on Pelham Parkway in Shelby County. Behind him and also traveling north was a vehicle being driven by Jeremy Phillips. Mabrey stopped for a red light at the intersection of CSX Railroad and Stonehaven Trail.

At just that moment Phillips glanced away from the road to change a song on his phone. When he looked back at the road he realized traffic ahead of him had stopped. Phillips slammed on his brakes but was unable to stop in time. He rear-ended Mabrey at a speed that Mabrey later estimated as being at least 45 mph.

Phillips explained to the investigating police officer that just before the crash he had looked in his rear-view mirror because he had something in his eye. Phillips later admitted this story was a lie and that he had told it to the officer in an effort to avoid getting a ticket.

In the meantime, Mabrey claimed to have sustained injuries to his left shoulder, left hip, and lower back. Despite this, he delayed seeking medical treatment for some thirty-four days. Mabrey was ultimately diagnosed with a left SLAP tear – i.e., an injury to the ring of cartilage