

The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

January, 2007

Statewide Jury Verdict Coverage

8 IJVR 1

Unbiased and Independently Researched Jury Verdict Results

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Indiana including court, division, presiding judge, parties, cause number, attorneys and results.

Auto Negligence - An uninsured twenty-one year-old man was driving drunk with a fourteen year-old female passenger when he ran off the road and hit a tree; after the imprisoned defendant failed to answer the complaint and was defaulted on liability, the case was tried on damages with defendant appearing *pro se*

Ramey v. Bartlett, 53C01-0401-CT-187

Plaintiff: Brad Smith, *Nunn Law Office*, Bloomington

Defense: *Pro se*

Verdict: \$15,000,000 for plaintiff (comprised of \$5,000,000 compensatory and \$10,000,000 punitive)

County: **Monroe**, Circuit

Court: J. Hoff, 12-5-06

On 8-10-03, Steven Bartlett, age 21, was driving on the streets of Monroe County in the company of his passenger, Noel Ramey, age 14. Bartlett was intoxicated at the time, and he soon ran off the road and into a tree.

Although the record does not describe Ramey's injuries, they were serious enough that her family apparently made modifications to their home to accommodate her disabilities. Her medical expenses climbed to more than \$200,000. Bartlett was charged with OWI, a Class D Felony, and was later sentenced to three years in the Putnamville Correctional Facility.

Through her father as her next friend, Ramey filed suit against Bartlett and blamed him for driving drunk, going off the road, and hitting the tree. In addition to her other damages, Ramey also sought punitive damages due to Bartlett's intoxication.

It turned out that Bartlett was also uninsured at the time of the crash.

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Accordingly, Ramey explored the possibility that she might be entitled to coverage under her father's policy. However, the record contains no indication this theory ever bore fruit.

Bartlett was still in prison at the time he was served with the complaint, and he never filed an answer. On that basis, the court subsequently granted Ramey a default judgment on the issue of liability. The case was set for a bench trial on the issue of damages, but Ramey insisted upon having a jury trial.

The case was tried in a single day to a jury in Bloomington. Bartlett, who by this time was apparently out of prison but still unrepresented by legal counsel, arrived late for the trial and requested a continuance. The court denied the motion, and the trial continued with Bartlett appearing *pro se*.

After one hour and twenty-five minutes of deliberation, the jury returned a verdict for Ramey and awarded her compensatory damages of \$5,000,000. To this amount was added another \$10,000,000 in punitive damages. The court entered a consistent judgment for that amount. It is unclear, however, how much, if any, of the judgment will ever be collected.

The jury asked several questions in this case. Among them were the following: (1) "Why does defendant not have counsel?" (2) What changes in addition to the bathroom/shower -- if any -- were made to the house or vehicles to accommodate Noel's disabilities?" (3) "Was the work Dad missed during medical leave all without pay? Were any benefits lost?" and (4) "If both compensatory & punitive damages are awarded, which award has priority in terms of payment? If either?"

Outrage - A security director at a department store alleged he was unlawfully set up in a sting by sheriff deputies who acted in spite after the director cut their profitable moonlighting security work

Syberg v. Marion County Sheriff et al, 1:05-1706

Plaintiff: Jeffrey S. McQuary, *Brown Tompkins Lory*, Indianapolis and Dennis F. McCrosson, III, *McCrosson & Associates*, Indianapolis

Defense: Ian L. Stewart and James B. Osborn, *Office of Corporation Counsel*, Indianapolis and John F. Kautzman and John C. Ruckelhaus, *Ruckelhaus Roland Kautz Blackwell & Hasbrook*, Indianapolis

Verdict: \$300,000 for plaintiff

Federal: **Indianapolis**

Court: J. Hamilton, 12-8-06

Mark Syberg was employed in the fall of 2004 as a the security director for the Value City Department Store in Indianapolis on Pike Plaza Road. In that role, Syberg supervised and allotted the hours to moonlighting off-duty local police. For the police this was lucrative work – while working at the store, they earned twice their police wage.

The trouble in this case began when Syberg stopped using a Kelley Ferrell, a Marion County Sheriff. It was Syberg's theory that Ferrell didn't appreciate the termination. In retaliation, she set up a sting with a combination of city and county officers. That purported crime by Syberg was that he was impersonating a police officer. Ferrell believed that Syberg had been waving a phony police badge and representing to the public that he was a bonafide police officer.

To effectuate the sting, Ferrell brought in help in the form Shelby Wickliffe, a fellow deputy sheriff and Michael Rieger, an Indianapolis cop. Wickliffe acted as the bait, entering the store playing the role of a drunk vagabond. Rieger would then move in for the arrest. To further frame the perfect crime, the police called away the store's on-duty police security so that Syberg would be forced to respond.

That is just what happened. Syberg approached the vagabond imposter and told him to leave. He also purportedly

waved the phony badge. That's all the police needed to launch their *Cops* moment. Rieger appeared and tackled Syberg, knocking him into a park bench. In the resulting struggle, he suffered an injury to his eye.

Following the arrest, Value City fired Syberg. He now works selling real estate, but is yet to match his security salary of \$35,000. The government also pursued the criminal charges to trial. While the impersonation case started out airtight, Syberg was acquitted at a bench trial.

Syberg then began his own civil prosecution, alleging assorted tortious counts against the police defendants, including excessive force, arrest without probable cause, tortious interference and outrage. If prevailing, he sought both compensatory and punitive damages. His theory was predicated on the evidence that first, it wasn't a real police badge, nor did Syberg claim it was – it was instead a good luck charm. Syberg also denied that he had impersonated the police on this day or any other. From his perspective, the entire police operation was vindictive, it beginning when Ferrell was angered that her hours were cut.

The police response was equally simple. Raising a fact dispute, they countered that Syberg had did display the badge and unlawfully identified himself as a cop. Only then was the signal given to move in for the arrest. Plaintiff had countered that he simply asked the vagabond imposter to leave.

There was an additional party to this action, Value City – plaintiff argued that the police had acted as its agents in executing the sting operation. However the retailer did not participate at trial – its role was not presented to the jury and questions of respondeat superior were to be resolved post-trial.

The verdict was for Syberg – he prevailed on all counts, including the arrest, excessive force, tortious interference and outrage. The jury further rejected that charged if the defendants had made a reasonable and honest mistake. Then to damages, Syberg took a total of \$300,000, which represented compensatory damages of \$230,000 and punitives of \$70,000.

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