

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

SEDRIC WARD,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	2:20-cv-02407-JPM-cgc
)	
SHELBY COUNTY, SHELBY COUNTY)	
SHERIFF'S OFFICE,)	
)	
Defendants.)	

**MOTION TO REINSTATE JURY VERDICT DATED APRIL 14, 2022, OR IN THE
ALTERNATIVE, TO AMEND THE JUDGMENT**

I. MOTION

Plaintiff, Sedric Ward, by and through the undersigned, moves this Court to reinstate the Jury's Verdict (ECF No. 157), and this Court's prior Judgments (ECF 190; and 191).

II. Procedural Background

On February 19, 2021, Plaintiff moved for summary judgment and sought dismissal of Defendant's affirmative defense, which was based on *waiver*. ECF No. 60-1 at PageID 559. Defendant argued that Mr. Ward waived all claims arising out of his termination when he signed the Release, in August of 2016. *Id.* On March 9, 2021, Defendant moved for summary judgment based on the agreement in the Release to waive "any and all claims" against the SCSO. ECF No. 64-1 at PageID 799.

On June 25, 2021, the Court granted Plaintiff's motion on the issue of waiver. ECF No. 87 at PageID 1519. The Court held that because the Release made no mention of

claims based on USERRA, the disclaimer of such claims was not “clear and unambiguous” as required in *Wysocki v. Int’l Bus. Machine Corp.*, 607 F.3d 1102, 1108 (6th Cir. 2010); ECF No. 87 at PageID 1520-1521. The Court additionally held that the three weeks of backpay granted to Plaintiff under the Release was “nowhere close” to the seventeen months of lost back pay, pension credits, and benefits Plaintiff was entitled to under USERRA. *Id.* at PageID 1522. The Court found that under 38 U.S.C. § 4302(b), any Release that “reduces, limits, or eliminates” Plaintiff’s rights to recovery under USERRA was void. 38 U.S.C. § 4302(b); ECF No. 87 at PageID 1521-1523.

The case then proceeded to a jury trial on April 11–14, 2022. ECF Nos. 148, 152, 153, 156. On April 14, 2022, the Jury returned a verdict in favor of Mr. Ward, finding that his USERRA rights were violated and that the violation by the County was willful. ECF No. 157. The Jury further found that Plaintiff was entitled to \$567,183 in lost wages and benefits, less \$6,183 in unmitigated damages, for a total of \$561,000, as well as an advisory verdict as to future damages in the amount of \$150,000, or \$50,000 per year for three years. *Id.*

The Court ruled on post-trial motions filed by both parties, upholding the lost wages award and liquidated damages award but reducing the front pay award to \$49,635.59. ECF No. 187. On October 31, 2022, the Court adopted calculations of \$238,850 in prejudgment interest and \$109,914 in tax offset, yielding a final judgment of \$1,570,035.18. ECF Nos. 190, 191. On December 6, 2022, Defendant appealed the Court’s judgment. ECF No. 202.

On April 11, 2024, the Sixth Circuit issued an opinion addressing the Court’s denial of summary judgment based on waiver. ECF No. 210 at PageID 3354-3355. It held

that the relevant language from the Release stated that Mr. Ward had “agreed to release ‘any and all claims whatsoever’ as to his termination.” *Id.* at PageID 3355. The Sixth Circuit reasoned that “to know that the [R]elease applied to Ward’s USERRA claim, one needed to know only that it was a claim.” *Id.*

The Sixth Circuit then addressed whether the Release was effective to release a claim under USERRA, based on whether the rights Mr. Ward received under the Release were “‘more beneficial’... than the ones he [gave] up.” *Id.* at PageID 3356. It rejected the Court’s finding that “three weeks of back-pay and a reinstatement with probation is objectively less beneficial than Plaintiff’s rights under USERRA[.]” *Id.* at PageID 3357. The Sixth Circuit held that:

The issue whether Ward believed benefits from the settlement agreement outweighed his USERRA claim is therefore one for a jury to decide.

The district court’s judgment is vacated, and the case is remanded for proceedings consistent with this opinion.

Ward v. Shelby Cty., 98 F.4th 688, 693 (6th Cir. 2024) (emphasis added). The Sixth Circuit Court of Appeals issued its Mandate on May 24, 2024. ECF No 211.

On June 5, 2024, Mr. Ward filed an opposed Motion for a Separate Trial. ECF Nos. 213, 215. On July 1, 2024, this Court entered an Order granting a trial on the sole issue of waiver, stating in pertinent part:

The Sixth Circuit’s analysis demonstrates that it intended to limit remand to only the affirmative defense of waiver, particularly whether such waiver was based on careful consideration of its merits. To the extent that a “separate trial” under Fed. R. Civ. P. 42(b) would limit the scope thereof to this one defense, Ward’s request for a separate trial is **GRANTED**. [and]

For the foregoing reasons, Plaintiff's Motion is **GRANTED**. The jury trial will only address whether the affirmative defense of waiver precludes recovery on Ward's USERRA claims.

ECF No. 219 (emphasis in original).

The case then proceeded to a jury trial on February 4-5, 2025. ECF Nos. 256, 262. On February 5, 2025, the Jury returned a verdict in favor of Mr. Ward; rejecting Shelby County's sole affirmative defense. ECF No. 263. On February 6, 2025, this Court entered its Judgment on the Remanded Issue.

Defendant Shelby County did **not** prove by a preponderance of the evidence that, at the time Sedic Ward signed the Agreement and General Release, he believed the benefits from the Agreement and General Release outweighed his USERRA rights.

ECF No. 266 (emphasis in original).

III. ARGUMENT

The Court should amend its Judgment to reinstate the Jury's Verdict (ECF No. 157) and this Court's prior Judgments (ECF 190; and 191). Courts have authority to reinstate original jury verdicts and judgments which were properly entered. See *Maty v. Grasselli Chemical Co.*, 98 F.2d 877, 880 (3rd Cir. 1938). In the alternative, "[t]he district court has considerable discretion in ruling on a Rule 59(e) motion." *Piper v. U.S. Dep't of Justice*, 312 F. Supp. 2d 17, 20 (D.D.C. 2004).

Although the procedural history of the *Ward* case is unique, there is a substantial body of case law controlling the disposition of this motion. See e.g., *Sands v. Wagner*, No. 4:01-CV-1475, 2007 U.S. Dist. LEXIS 74975, at *4-6 (M.D. Pa. Oct. 9, 2007). Further, issues which are properly decided by a jury are not to be relitigated upon the grant of a new trial on other issues improperly decided. See *Pritchard v.*

Liggett & Myers Tobacco Co., 370 F.2d 95, 95-96 (3d Cir. 1966) ("Since the issue of causation was decided by the jury in the earlier trial, the plaintiff may not be required to relitigate the same issue when the action is retried."). See, e.g., *United States v. Hicks*, 146 F.3d 1198, 1200-01 (10th Cir. 1998) (affirming district court's entry of judgment on unaffected counts after remand without necessity of new trial); *Reeder-Simco GMC, Inc. v. Volvo GM Heavy Truck Corp.*, 497 F.3d 805, 807 (8th Cir. 2007) (recounting district court's entry of modified judgment on remand on unaffected claims following reversal by Supreme Court); *O'Hagan v. Soto*, 565 F. Supp. 422, 425-26, 429 (S.D.N.Y. 1983) (noting that initial judgment as to question of liability survived subsequent vacatur on question of damages); *Ponte v. Real*, 471 U.S. 491, 503 n.4, 105 S. Ct. 2192, 85 L. Ed. 2d 553 (1985) (Stevens, J., concurring in part) (collecting examples where judgment on a federal claim is reversed but state law judgments are permitted to stand); see also *Harvey v. Richards*, 11 F. Cas. 740, 745, F. Cas. No. 6182 (C.C.D. Mass. 1814) (Story, J.) ("At common law, if a plaintiff obtains a judgment in an inferior tribunal, which is reversed in the appellate court, it is very clear, that the reversal operates no further, than to nullify the original judgment.")

Nothing about this should come as a surprise. After a court of appeals vacates a judgment a district court on remand often will enter a new judgment in the same party's favor on the existing record if one can be had unaffected by the error found in the appeal. That's what happened in *Dish Network* when the district court entered a new order granting summary judgment after this court considered and rejected a previous order granting summary judgment on different grounds. See 772 F.3d at 865-66. **That's what happens all the time after an appellate court reverses a judgment following a jury trial because of an error affecting one claim but not others and the district court proceeds to fashion a new judgment using only the portions of the existing**

verdict unaffected by that error. We discern no reason why a different result should obtain here, where a judgment implicating the Act's protections is no longer possible but all the elements necessary for a judgment under state law are present and unaffected by any error identified in the first appeal, or on remand for that matter.

Cook v. Rockwell Int'l Corp., 790 F.3d 1088, 1102 (10th Cir. 2015) (emphasis added).

Here, we have the same situation. Upon remand, the Sixth Circuit made no mention of the veracity of the Jury's verdict. In fact, the limited remand contemplated one thing, a jury trial on Shelby County's sole affirmative defense of waiver. That has occurred. As such, the error which precipitated the second trial has now been cured as a matter of law. Because the second trial rectified the one error contained in the first trial, there are no outstanding errors or issues to be decided with regard to Shelby County's liability, nor Mr. Ward's damages. This was argued as the basis for Mr. Ward's Motion to sever the trial. ECF No. 213. Reinstating the Jury Verdict and correcting the present Judgment to reflect the outcome of Mr. Ward's prior judgments will preserve judicial resources.

IV. CONCLUSION

This case should proceed to finality without undue delay or unnecessary use of judicial resources, and it should be resolved without the risk of significant error. Therefore, Mr. Ward's motion to reinstate the Jury's Verdict (ECF No. 157), and this Court's prior Judgments (ECF 190; and 191), should be granted. A proposed judgement to accompany this motion will be provide to chambers.

Respectfully submitted, this February 14, 2025.

/s/ Thomas G. Jarrard
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CERTIFICATE OF CONSULTATION

I certify, pursuant to LR 7.2(a)(1)(B), that on February 14, 2025, the parties met and conferred by phone regarding this matter, and I affirm that after that consultation we were unable to reach agreement as to the relief requested in this Motion.

/s/ Thomas G. Jarrard

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to all counsel of record. And I hereby do certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None

/s/ Thomas G. Jarrard