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Court says Crosby is fair game for suit
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A federal appeals court has ruled that former state prisons boss James Crosby can be sued by relatives of a death-row inmate who died after being beaten by guards at Florida State Prison when Crosby was warden.

A three-judge panel of the 11th Circuit Court of Appeals in Atlanta said the family of inmate Frank Valdes had "more than adequate" evidence for a jury to determine whether Crosby knew, or should have known, that violence against hated inmates was common at the giant prison near Raiford.

Valdes, who died on July 17, 1999, was in the prison's notorious "X-wing" - where the most dangerous offenders are kept - following the murder of a guard at another institution.

The court said Mario Valdes, the inmate's father, could try in court to show that "inmate abuse at the hands of guards was not an isolated occurrence, but rather occurred with sufficient regularity as to demonstrate a history of widespread abuse at FSP." Whether Crosby was sufficiently warned about it is "a factual question for the jury," the ruling said.

Wanting 'humane treatment'

Attorney Guy Rubin of Stuart said Valdes was not resisting when he was kicked and beaten and given electric shocks.

"I don't think anybody on death row is going to be a sympathetic individual, but we have laws that provide for the respectful and humane treatment of our prisoners, and that's what this case is about," Rubin said. "The judge and jury are the ones who make decisions regarding what an inmate's lawful punishment should be, not a goon squad acting under protection of a high-ranking official."

Ron Wasilenko, the Jacksonville attorney representing Crosby, could not be reached for comment on the ruling.

Crosby, who worked his way up through the ranks of the Department of Corrections, became secretary of the agency in Gov. Jeb Bush's second term. He was fired early this year amid state and federal investigations unrelated to the Valdes case.

U.S. District Judge Timothy Corrigan in Jacksonville denied Crosby's claim of immunity from civil suit for actions taken in his official capacity as warden. The three-judge panel, in a ruling written by former Florida Supreme Court Justice Rosemary Barkett, upheld Corrigan - saying public officers have immunity "as long as their conduct violates no clearly established statutory or constitutional rights" of citizens.

The panel said "there is insufficient evidence" that Crosby ordered the Valdes beating or took part in it. But the judges said his predecessor, warden Ron McAndrew, warned Crosby that the prison had a "notorious reputation" and even named some guards whom he considered dangerous.

'Hands-off' approach

The court also cited testimony by the Rev. Andrew MacRae, a chaplain from 1994 to 1999, who said "Crosby had a more 'hands-off' approach than prior wardens had, thus permitting the 'good old boys' network of guards to mistreat inmates." MacRae said he was prevented from seeing some prisoners after violent encounters with guards.

The court said Crosby ended the practice of videotaping "cell extractions," when teams of guards subdue violent inmates and remove them from their cells. McAndrew said ending the videotaping "sent a message to corrections officers that the administration at FSP was going to permit further abuse of inmates," the ruling said.

It also said MacRae knew about "touching up" an inmate - inflicting minor injuries during a cell extraction, so the prisoner could be treated and wounds could be documented at an infirmary, then taking the prisoner back to a cell for a brutal beating. The court said "he believed these incidents increased during Crosby's tenure because of Crosby's hands-off approach."

The DOC declined comment on the ruling. Attorney Cassandra Capobianco, who represents 10 inmates in unrelated legal action alleging chemical spraying and other mistreatment, said the Valdes ruling established that unwarranted violence was common at FSP.

She said Jim McDonough, who fired numerous high-level prison administrators since he replaced Crosby as DOC secretary, has improved

the situation but violence by guards still occurs.

"The steps he has taken seem to make a lot of sense," she said.

Four guards were acquitted on state charges in Valdes' death. Rubin said the Civil Rights Division of the U.S. Department of Justice has a pending federal investigation.

"It's been seven years and nothing's happened," he said.
