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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-1357

JOHN P. HARRIS, III;
KIMBERLY HARRIS, HUSBAND AND WIFE

v.

UNITED STATES OF AMERICA,
doing business as UNITED STATES POSTAL SERVICE,

Appellant

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(03-cv-06430)
Magistrate Judge: Thomas J. Rueter

Submitted Pursuant to Third Circuit LAR 34.1(a)
March 1, 2007

Before: SCIRICA, Chief Judge, MCKEE, NOONAN*, Circuit Judges.

(Filed March 14, 2007)

McKee, Circuit Judge.

*The Honorable John T. Noonan, Jr., United States Circuit Judge for the Ninth Judicial Circuit, sitting by designation.

The United States appeals the judgment that was entered following a trial before a Magistrate Judge on claims brought by plaintiffs, husband and wife, under the Federal Tort Claims Act. For the reasons that follow, we will affirm.

Inasmuch as we write primarily for the parties who are familiar with the background of this case, we need not repeat the factual or procedural background. The only issue raised on appeal is whether the award of \$520,000 for pain and suffering was excessive. We have reviewed the extremely thorough, careful and thoughtful Memorandum of Decision filed by Magistrate Judge Rueter dated, November 2, 2005, setting forth his findings of fact and conclusions of law. We will affirm the award for pain and suffering substantially for the reasons set forth in Magistrate Judge Rueter's Memorandum of Decision.

In explaining why he was denying the government's motion for remittitur, the Magistrate Judge explained:

The [amount] is well supported by the court's 32 page opinion, which contains 155 findings of fact and conclusions of law. There is no need for this court to say more to support its decision in this case, except to note the obvious. Reasonable minds will differ when quantifying the emotional and physical pain and suffering and the loss of life's pleasures of another individual. ... the mere fact that the government disagrees with the court's assessment of Mr. Harris' non-economic damages is no basis for this court to alter its award which was given after careful deliberation and reflection.

App. 004 (citing *Herb v. Hollowell*, 154a. 582, 584 (Pa. 1939) and *Waldorf v. Shuta*, 142 F.3d 601, 623 (3d Cir. 1998)).

Nothing more needs to be said. It is clear to us that the award which the government is challenging was indeed “given after careful deliberation and reflection,” and the fact that the government disagrees with the result of the court’s analysis clearly does not justify our setting aside an award for pain and suffering which the Magistrate Judge properly calculated and explained.

Accordingly, for the reasons set forth above, we will affirm the order denying the Government’s Post-Trial Motion For A Remittitur.