

**COURT BAILIFF AS KEEPER OF THE JAIL**

**BY  
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**THE CASE:**

*State v. Shepherd*, North Carolina Court of Appeals, COA 02-449, March 18, 2003

**THE STATUTE: NCGS 162-55 Injury to prisoner by jailer.**

*If the keeper of a jail shall do, or cause to be done, any wrong or injury to the prisoners committed to his custody, contrary to law, he shall not only pay treble damages to the person injured, but shall be guilty of a Class 1 misdemeanor. (1795, c. 433, s. 6, P.R.; R.C., c. 87, s. 8; Code, s. 3463; Rev., s. 3661; C.S., s. 4407; 1983, c. 631, s. 1; 1993, c. 539, s. 1098; 1994, Ex. Sess., c. 24, s. 14(c).)*

**AN ASIDE:**

We think it interesting that the original version of this statute (it has been amended a number of times, most recently in 1994) was enacted by one of the very first general assemblies of North Carolina in 1795. To put this date in perspective, in November of 1789 North Carolina became the twelfth state of the United States of America and in 1794 the state capital was moved from New Bern to Raleigh.

**THE FACTS:**

It appears that a certain sheriff's office employed the defendant in its custody division as a bailiff in the courthouse. The defendant was certified as a detention officer, but not as a "peace officer" or law enforcement officer. The jury in superior court found the defendant guilty of bribing two inmates to beat up the victim, another inmate.

**THE LAW:**

The technical legal issue on appeal was whether or not the bailiff was within the statute's definition of "the keeper of the jail." The Court of Appeals decided this bailiff was within the definition. The opinion appears to say that the bailiff was certified only as a detention officer. The Chief Jailer testified at trial that bailiffs were jailers of prisoners in the courthouse and, consequently, were within the statute.

You will note that GS 162-55 provides that an injured prisoner can receive treble damages for an injury inflicted by “a keeper of the jail” as well as be convicted of a Class 1 misdemeanor.

### **THE UNKNOWN:**

Whether or not a bailiff who is certified as a “peace officer” or law enforcement officer would be subject to this statute is not known. And, we shall not speculate on that.

### **ADVICE TO THE SHERIFFS OF NORTH CAROLINA:**

This case should be included in your next in-service training classes. If that training is several months away, we advise circulating this commentary or a memo on point to all members of your office in the very near future. Some statutes pertaining to sheriffs, such as this one, are obscure in the sense that they are almost never taught, and thus do not become common knowledge among deputies or detention officers.

It seems to us that the discussion of this case would present an excellent opportunity to remind all members of your office of the law enforcement code of ethics and your own policy of fair and courteous treatment of citizens, victims, and those suspected of criminal offenses. It would also be worthwhile to point out the consequences for a serious violation of office policy.

The office of Sheriff is an ancient and honorable public office. From its institution in medieval England, to its incorporation in the North Carolina Constitution in 1776, and through the present day, the person holding the Office has held it in the public trust. That fact, and the obligation of their oath of office, is always worth repeating to the members of your office.

If you hold your office in public trust, and are supported by your deputies and detention officers acting reasonably and in good faith in the course and scope of their employment, justice will be done.

Best wishes and good luck to you.

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