

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 458

H.P. 355 House of Representatives, February 20, 1987
Reference to the Committee on Legal Affairs suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative MANNING of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 Resolve, Authorizing Dorothy Gammon to Bring
2 Civil Action Against the State and
3 Cumberland County.
4

5 Action against the State and Cumberland County
6 Authorized. Resolved: That Dorothy Gammon, of Port-
7 land, be authorized to bring suit against the State
8 and its political subdivision, Cumberland County.

9 On the evening of September 20, 1986, in Port-
10 land, Dorothy Gammon was attacked, severely beaten and
11 raped by Dwayne A. Lakin. At the time of the attack,
12 Dwayne A. Lakin was a ward of the State and Cumber-
13 land County and had been incarcerated at the Portland
14 Public Safety Building. Shortly before the attack,
15 the inmate had escaped from the custody of the Cum-
16 berland County Sheriff's Department, State, and Cum-
17 berland County. Dwayne A. Lakin had a history of as-

1 saultive behavior on women, including prior incidents
2 of beatings and rapes. This criminal history was
3 within the knowledge of representatives of the State
4 and Cumberland County. The escape of the inmate on
5 September 20, 1986, was the result of gross negli-
6 gence on the part of the employees and representa-
7 tives of the State and Cumberland County. The repre-
8 sentatives of the State and Cumberland County in-
9 flicted further pain and suffering and mental and
10 emotional distress on Dorothy Gammon by failing to
11 notify her when the escapee was returned to custody.

12 As a result of the attack, beating and rape,
13 Dorothy Gammon has suffered permanent, mental, emo-
14 tional and physical injuries, requiring medical and
15 psychological treatment. Dorothy Gammon alleges that
16 her physical and mental injuries were caused by the
17 negligence of the State and Cumberland County.
18 Dwayne Lakin was supposed to be in the custody of the
19 State at the Maine State Prison in Thomaston to serve
20 a sentence for burglary and theft. Before his sen-
21 tence at Thomaston had been fully served, the State
22 transferred Lakin to the Cumberland County Jail. Be-
23 cause of an overflow at that jail, Lakin was further
24 transferred to a low-security city police lockup in
25 the Portland Public Safety Building, under the super-
26 vision and custody of the Cumberland County Sheriff's
27 Department. Lakin was allowed to simply walk out of
28 the lockup upon his "promise" to return in a few
29 hours and within a few hours of his being so re-
30 leased, Lakin assaulted, battered and raped Mrs.
31 Gammon.

32 Lakin had a history of assaultive behavior on
33 women, including prior incidents of beatings and
34 rapes. This criminal history was known to officials
35 of the State and of Cumberland County before the
36 State transferred him from Thomaston to Cumberland
37 County. The State also knew or should have known
38 that Lakin was untrustworthy, but transferred him to
39 Cumberland County anyway, and without suggesting that
40 Cumberland County officials impose restrictions upon
41 him. Although Cumberland County officials knew or
42 should have known of Lakin's dangerous propensities
43 and that he had previously escaped from the Maine
44 Correctional Center in Windham, where he had been in-
45 carcerated for aggravated assault, Cumberland County

1 officials allowed Lakin to walk out of the lockup
2 simply upon Lakin's request that he be released and
3 his "promise" to return. The inmate was not in a
4 furlough status, leave status or work release status
5 at the time. Other representatives of the State and
6 Cumberland County, including the County Sheriff, were
7 guilty of gross negligence in that the sheriff failed
8 to notify Dorothy Gammon that the escapee was in cus-
9 tody in Florida. The sheriff was aware of this situ-
10 ation even before the escapee was formally returned
11 to custody. The sheriff then drove to Florida with
12 the escapee's girlfriend to pick him up in a govern-
13 ment vehicle. Dorothy Gammon lived in constant fear
14 for her life and the safety of her 4 children until
15 she learned by the newsmedia that her assailant and
16 rapist had been apprehended.

17 Action is to be brought to Superior Court for the
18 County of Cumberland, within one year from passage
19 of this resolve, against the State and Cumberland
20 County for damages. The action and the conduct of it
21 shall be according to the practice of actions or pro-
22 ceedings between parties in Superior Court. The At-
23 torney General is authorized and designated to ap-
24 pear, answer and defend this action but none of the
25 provisions of or defenses specified in the Maine Tort
26 Claims Act, Title 14, chapter 741, sections 8101 to
27 8118 shall apply. The Attorney General or his desig-
28 nee is further authorized to enter into a compromise
29 settlement, if agreed to by the parties, which set-
30 tlement shall be binding on the State and the County
31 of Cumberland.

32 Any judgment or settlement that may be awarded in
33 this civil action shall be payable from the Treasurer
34 of State. Recovery by Dorothy Gammon in this civil
35 action, if any, shall not exceed the higher of
36 \$300,000 or the applicable insurance policy limits,
37 if any.

38 STATEMENT OF FACT

39 The purpose of this resolve is to authorize
40 Dorothy Gammon to bring a civil action suit against
41 the State and Cumberland County.

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