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# Pataki Is Cleared in Lawsuit Over Sex Offenders' Rights

By **BENJAMIN WEISER**

A federal jury in Manhattan found on Wednesday that former Gov. George E. Pataki of New York was not liable for violating the rights of six convicted sex offenders [who had sued](#), claiming they were wrongly confined in state psychiatric hospitals after completing prison sentences for their crimes.

The six plaintiffs were confined under [a 2005 initiative](#) of the Pataki administration, in which state psychiatrists reviewed the cases of inmates as they neared the end of their sentences to determine whether they should be committed to psychiatric hospitals.

Of the roughly 800 inmates who were evaluated under the so-called sexually violent predator initiative, 127 were involuntarily admitted to psychiatric hospitals.

The program was ended in 2006 after the State Court of Appeals said that such prisoners were entitled to greater protections, including notice and a court-supervised commitment process.

The judge, Jed S. Rakoff of Federal District Court, had already ruled that the program violated the plaintiffs' rights to due process, but the jury still had to decide the extent to which Mr. Pataki and three other former state officials named as defendants had been involved in creating or carrying out the policy.

In addition to Mr. Pataki, the jury cleared two other defendants of liability: Glenn S. Goord, the former correctional services commissioner, and Eileen Consilvio, the former executive director of the Manhattan Psychiatric Center, where the plaintiffs were held.

A fourth defendant, Sharon Carpinello, the former commissioner of the State Office of Mental Health, was found liable, but the jury assessed damages of only \$1 per plaintiff. The jury had been told to award nominal damages if it found liability against a defendant but concluded a plaintiff had not suffered any injury.

Mr. Pataki, who was not in court when the verdict was read, said later, "In general, I believe the jury understood that our initiatives were aimed at treating violent criminals as violent criminals, while respecting the Constitution and the rule of law.

"I think the fact they found one defendant liable for \$1 sends a clear message that the state acted properly, and that these plaintiffs were not entitled to any real damages based on a technical mistake."

Dr. Carpinello, who broke into tears as the verdict on her was delivered, said after the proceeding that she was "certainly not happy" at being held liable, but that the nominal damages was "a huge statement from the jury."

Members of the seven-woman, one-man jury would not offer any substantive comments after the verdict, although two jurors said the group was split as deliberations began late on Monday.

"We had differing opinions but we were able to resolve them amicably," one female juror said.

A lawyer for the plaintiffs, Ameer Benno, said after the proceeding, "The evidence supported, certainly, a finding of liability on the part of Governor Pataki" and the other defendants.

In their closing arguments, Mr. Pataki's lawyer, Abbe D. Lowell, and Rebecca A. Durden, a lawyer with the New York attorney general's office, which represented the three other defendants, highlighted the plaintiffs' sordid records: one had been convicted of sodomizing his 9-year-old daughter and also accused of abusing more than 20 other children. Another plaintiff had sexually abused a 5-year-old girl in a house he was burglarizing.

Ms. Durden also argued that if the initiative was intended to make sure every inmate convicted of a sex crime wound up in a state psychiatric hospital, "please ask yourself why the overwhelming majority of those who were evaluated were set free."

Mr. Pataki, a Republican who was governor for three terms, [testified during the trial](#) that he asked his staff in 2005 to put the sexually violent predator initiative into effect after he had failed repeatedly over the years to win legislative approval for such a policy.

He said he had been influenced by, among other things, the fatal 2005 stabbing of a woman by a convicted sex offender in a parking garage in White Plains, and an experience years earlier when he and his family were accosted while hiking in a state park by a man they later learned was a sex offender. "It just made me personally aware not just of the horrors of these crimes," he told the jury, "but the immediacy of the possibility."

