

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

RONALD PATRICK SWINEY, )

# 154406 )

Plaintiff, )

VS )

CIVIL ACTION NO. 91-T-978-N

E. L. HARRELSON, et. al, )

Defendants. )

A F F I D A V I T

Before me, the undersigned authority, a Notary Public in and for said County and State of Alabama at large, personally appeared one T. G. McDonnell who, being known to me and being by me first duly sworn, deposes and says on oath as follows:

My name is T. G. McDonnell, I am presently employed as a Correctional Officer Supervisor II with the Alabama Department of Corrections, Kilby Correctional Facility, Mt. Meigs, Alabama. I am over twenty-one years of age.

In his complaint served on me on October 29, 1991, inmate Ronald Patrick Swiney, # 154406, alleges that I violated his constitutional rights by failing to protect him by knowingly allowing continued deadly threats against him while he was a patient at Humana Hospital-Montgomery during August of 1989. Specifically, he alleges that D. O. C. officials were aware of the first deadly threat and allowed threats to continue. He alleges that he was first threatened by a white male security guard and then by a black female security guard, both employed by

Montgomery Security, Inc. Further, he alleges that the black female removed her weapon from her holster after threatening him.

My involvement in this matter began at approximately 5:30 p.m., August 23, 1989 when Captain Lyle with Montgomery Security called to advise me that inmate Ronald Swiney, B/M, AIS # 154406X, was causing a disturbance at Humana Hospital-Montgomery. Captain Lyle reported that Swiney had thrown his meal tray at one of the security guards, was standing in the bed cursing the guards, and was demanding to return to Kilby.

Moments after the call from Captain Lyle, I received a call from a woman who identified herself as the charge nurse at Humana, who advised me that her staff was concerned about their safety as a result of Swiney's behavior. She also advised that Swiney was demanding to return to Kilby. She further advised that she contacted the attending physician, Dr. Wool, and that Dr. Wool would not discharge this inmate, but added that they could not stop him, if he demanded to leave against medical advice. I advised her that I would come to Humana and talk to Swiney. After briefing Warden Harrelson, I departed Kilby for Humana Hospital.

At approximately 6:30 p.m., Officer Rodney Talley and I arrived at Humana Hospital and found Swiney lying calmly, quietly in his bed. I asked the Montgomery Security guards, Officers Lewis and Andrews, to wait outside while Mr. Talley and I talked to Swiney.

During my conversation with Swiney, he claimed that shortly after Mrs. Lewis and Mr. Andrews arrived for duty, they received a call from someone advising them to put an additional set of leg irons on him, (he was already restrained by one set of leg irons fastened to the bed rail). Swiney claimed that he asked Mr. Andrews why and by whose orders the other leg was to be restrained and that when Mr. Andrews began his reply, Mrs. Lewis interrupted stating that he, Mr. Andrews, did not have to tell Swiney anything. Swiney claims that he then directed his questions toward Mrs. Lewis and that the conversation soon erupted into an argument. Swiney claims that Mrs. Lewis then

attempted to end the argument by warning him that, "I'll pop a cap on your ass", to which he responded by shoving his tray off the bed side table. He insisted that it was not aimed at or intended to hit Mrs. Lewis, however.

After about an hour long conversation with Swiney, a conversation in which he remained respectful, calm, and in control of his emotions, I exited the room, leaving Mr. Talley with Swiney with the intentions of getting the guards version of what transpired.

They, Lewis and Andrews, claimed that shortly after the beginning of their tour of duty, they received a call from their office with instructions to place another set of leg irons on Swiney's free leg. I specifically asked why he needed to be further restrained and they replied that it was the result of an incident that occurred on a previous shift. (Apparently, he cussed at his mother.) I then inquired about their observation of his behavior from the time they took over to the time of placing the additional restraints. They both stated that he was calm, quite, and not causing any problems, but added that they had to follow their orders. Both agreed that the problem erupted after the additional leg irons were applied.

Although, this is not consistent with the original report that the additional leg irons were applied as a result of the tray throwing. I then questioned Ms. Lewis about the inmate's allegation that she threatened, "I'll pop a cap on your ass". She denied saying anything resembling this statement. I then asked Mr. Andrews to accompany me down the hall and questioned him privately. Privately and confidentially, he stated that in his opinion, Ms. Lewis caused the incident to escalate with her demeanor.

Upon returning to the room with Mr. Andrews, I asked Ms. Lewis to accompany me down the hall so that I could also question her in private. Her reply was that she was "not going anywhere, I don't have anything else to say about it". I then advised her that I would be contacting Captain Lyle to have her replaced and that she would not be assigned to guard State inmates in the

future.

I then contacted Warden Harrelson, advised him of my assessment of the situation and of my desire to replace Ms. Lewis, and obtained his approval to do so.

At approximately 8:30 p.m., August 23, 1989, I contacted Captain Lyle and advised him to replace Ms. Lewis and that she was not to be assigned to guard State inmates in the future. Captain Lyle agreed to comply with my request and asked that I forward a written directive to that effect.

Inmate Swiney was discharged from Humana Hospital August 25, 1989 without any further problems reported.

At no time during my conversation with Swiney or any other time prior to this complaint (91-T-978-N), did he make me aware of any allegations against a white male guard referred to in his complaint as John Doe. Both Ms. Lewis and Mr. Andrews, the guards assigned that night, are black. Nor did he make any allegations known to me regarding Ms. Lewis removing a loaded weapon from her holster.

To my knowledge, the above-related facts are the entirety of my involvement with inmate Swiney concerning the allegations upon which his complaint is based. I deny that I violated any of inmate Swiney's constitutional rights.

*T. G. McDonnell*

T. G. McDonnell, COS II  
Kilby Correctional Facility

STATE OF ALABAMA )  
MONTGOMERY COUNTY )

SWORN TO AND SUBSCRIBED BEFORE ME AND GIVEN UNDER MY HAND THIS  
THE 2nd DAY OF December, 1991.

*Erma W. Farmer*

NOTARY PUBLIC

My Commission Expires: 9/24/94