

Re: My Petition to Indict Wisconsin Prison Staff for Their Systemic Abuse of Prisoners in Solitary Confinement

Created 11 May 2014
by Nate A. Lindell

The attached legal documents will be useful for anyone seeking the criminal prosecution of anyone in Wisconsin courts, particularly bureaucrats. They also ought to reveal the impetus for my transfer out of WI's prison system & into the B.O.P.'s custody.

Basically, in a county thick with prisons, I sought the indictment of the entire administration at one prison, because - from the top down - they permitted staff to brutalize prisoners in their seg. unit. The county judge denied my petition, but the appellate court directed the county judge to refer it to the D.A. for investigation & possible prosecution. So far I've not heard from the D.A., what his investigation may have consisted of (he had 30 days from the date of 25 Feb. 2014 to inform the court & me of his decision, which I can appeal) & if he's gonna prosecute.

My suspicion is that they think "out of WI, out of mind," which would mean they don't know me very well. I'm riding this case like a stolen donkey. ☹

Anyway, here's what's attached:

- Appendix 1 - 5 page "Petition for John Doe Proceedings..."
- Appendix 2 - 2 August 2013 Decision of Judge Steven Bauer
one page
- Appendix 3 - 4 page "Motion for Reconsideration" of ↑
- Appendix 4 - 1 page "Motion to Substitute Judge"
- Appendix 5 - 1 page Decision of Judge Bauer, dated
27 August 2013, denying above motions
- Appendix 6 - 1 page Decision of Judge Bauer, dated 17
September 2013
- Appendix 7 - 1 page Memorandum Decision & Order of Judge
Joseph Sciascia, dated 28 October 2013
- Appendix 8 - 10 page "Petition for Supervisory Writ" to the
WI Court of Appeals, by me
- Appendix 9 - 5 page response to ↑ by A.A.G. David C. Rice
- Appendix 10 - 2 page rebuttal to ↑, with 2 page Declaration, by me.

Appendix 11 - 4 page Opinion of WI Court of Appeals, dated
14 February 2014

Appendix 12 - 1 page Order of Judge Sciascia.

As I said in an accompanying post, it's easy for me to make accusations of abuse without backing them up. That's why I do my best to provide specific facts, sources anyone can dig up for themselves through WI's open Records laws. I hope some journalists will take me up on this offer.

Again, so far the D.A. has not provided me with his report & decision on whether or not he's gonna prosecute any of the staff involved. If the D.A. declines to prosecute, then the judge must hold a hearing & decide if that decision was appropriate. So, the case is far from over. I might have to file another petition with the court of Appeals just to make the D.A. issue his report & decision, which I will post here. ☺

Please let Solitarywatch.com & such know about this. Thank you
W/ Love & Respect.
Nate

23
State of Wisconsin Circuit Court Dodge County

State of Wisconsin ex rel. Nate A. Lindell
Petitioner

v.
John Does,
Respondents

Case No.

Petition for John Doe Proceedings, Pursuant to Wis. Stats. § 968.26

To: Clerk, Dodge County Circuit Court
210 W. Center St.
Juneau, WI 53039

The forenoted petitioner, "Lindell," proceeding pro se, hereby petitions this court pursuant to Wis. Stats. § 968.26 to initiate a John Doe proceeding, directing the District Attorney ("D.A.") to investigate it, and, upon the conclusion of said investigation, if the D.A. declines to prosecute appropriate charges (identified below), review the D.A.'s file on the matter, conduct an appropriate evidentiary hearing, where this court reviews the D.A.'s file and considers appropriate evidence, then directs justified prosecution(s).

In support of this petition, petitioner represents as follows:

1. Based upon former Waupun Correctional Institution ("W.C.I.") prisoner Christopher J. Hamlin's statements to Lindell, Lindell is aware that Correctional Officer ("C.O.") II Moungey, on 1 January 2013, falsely wrote on a log sheet that Mr. Hamlin referred to W.C.I. Lt. Larson as a "bitch" and profanely demanded clothing, which caused Lt. Larson to prolong his denial of clothing for Hamlin & prolonged Hamlin's retention on "control status" (meaning Hamlin had no bedding nor clothing, in a very cold cell) for two more hours than would have been the case. Lindell drafted a 42 U.S.C. § 1983 suit about that for Mr. Hamlin, which was filed in the W.D. Wis. U.S. Courthouse, given the file no. 13-cv-202-bbc. Shortly

after this suit was filed, C.O. II Moungey commented on it to Lindell.

2. Numerous acts of severe physical and sexual abuse of W.C.I. prisoners in W.C.I.'s segregation complex have occurred between 1 January of 2013 through June 30th of 2013, as revealed on <http://betweenthebars.org/blogs/540/>, post #141, titled "Ongoing Abuse of Prisoners in W.C.I.'s Seg. Complex." W.C.I.'s warden, William Pollard, security director, Anthony Meli, deputy warden Donald Strahota, seg. supervisor, Brian Greff, and Seg. Lt. Jessie Schneider, all knew about this ongoing systemic abuse, yet refused to comply with Wis. Admin. Code § DOC 306.04 **Responsibility of employees** ("Every employee of the department is responsible for the safe custody of the inmates confined in the institution.") by taking any measures to prevent such abuse from continuing to occur. In some cases, Lt. Schneider and/or Brian Greff directly supervised or engaged in this systemic abuse.

3. Wisconsin Dept. of Corrections ("W.D.O.C.") Work Rules prohibit W.C.I. staff from:

"11. Violating a criminal statute or ordinance, or other regulation having the force and effect of law.

"12. Threatening, attempting, or inflicting bodily harm to another person

"13. Intimidating, interfering with, harassing, (including sexual or racial harassment), demeaning, or using abusive language in dealing with others."

4. The W.C.I. Administration, identified in ¶ 2, above, have allowed staff, such as C.O. II Moungey, as detailed in the forenoted blog post, to repeatedly completely disregard the forenoted Work Rules.

5. Lindell is an advocate for the decent, humane treatment of prisoners, particularly mentally ill prisoners. Lindell is also a jail-house lawyer. Both of these characteristics make Lindell unpopular amongst prison staff intent on abusing prisoners.

6. Ever since, about the ides of March 2013, C.O. II Moungey informed Lindell that he, C.O. II Moungey, knew of Lindell helping Mr. Hamlin sue C.O. II Moungey. C.O. II Moungey has engaged in acts of harassment

at every opportunity, such as:

- On 18 June 2013, C.O. II Moungey told a rookie C.O., Mr. Lash, that Lindell had to have money on his account in order to make a phone call, resulting in C.O. Lash refusing to let Lindell make a phone call that was disconnected prematurely. Lindell filed grievance # WCI-2013-12100 about this

- On 29 June 2013, C.O. II Moungey denied Lindell recreation, walking right past Lindell's cell, while Lindell was standing at his door, as per policy. At the time Lindell was in cell C-216, and the guy in cell C-217 (Mark Allen Walters) watched as this happened. When Moungey again passed Lindell's cell, Lindell asked C.O. II Moungey why Moungey skipped Lindell for rec. and asked to be taken out to rec., to which C.O. II Moungey said, "No." Lindell filed grievance WCI-2013-13217 about this

- On 5 July 2013, while Lindell was at rec. C.O. II Moungey tore apart Lindell's cell, taking Lindell's only pen, taking Lindell's W.C.I. request forms, and leaving all of Lindell's legal papers in a messy pile. The prisoner in cell C-218, Mr. Waylon Wayman, who was at rec. and could see C.O. II Moungey going into cells, told Lindell that C.O. II Moungey spent only moments in the other prisoners' cells but spent nearly an hour in Lindell's cell. When Lindell asked C.O. II Moungey, later, for a pen, so Lindell could write, C.O. II Moungey looked at Lindell with anger and never brought Lindell a pen. Lindell filed grievance # WCI-2013-13897 or WCI-2013-13901 about this incident.

- On 9 July 2013, at approximately 5 P.M., when C.O. II Moungey came to Lindell's cell to escort Lindell to recreation — C.O. II Moungey made it a point, when he was working, to always be the one to take Lindell from Lindell's cell to recreation — C.O. II Moungey slapped the handcuffs onto Lindell's wrists, cutting Lindell's left wrist, causing Lindell to jerk his hands back in from the pain. Lindell then noticed that his left wrist was cut, the skin torn,

and a drop of blood oozed out. Lindell asked, "What the fuck are you doing?" + showed C.O. II Moungey the injury. C.O. II Moungey replied, "That's what ya get," closed the trap and denied Lindell rec. Again, Mark Allen Walters heard this exchange, and, about an hour earlier, heard C.O. II Moungey tell Lindell, "I saw that suit you did for Cooper." That evening, Tyrus Lee Cooper received the suit that Lindell wrote for him about C.O. II Moungey sexually assaulting Mr. Cooper during a strip search, sticking his finger in Mr. Cooper's anus, contrary to Wis. Admin. Code § DOC 306.17 Search of inmates (3) BODY CAVITY SEARCH (b) ("Medical staff shall conduct body cavity searches./..."). After C.O. II Moungey injured Lindell, Lindell pressed his intercom button and requested medical care, because C.O. Kubat refused to respond to Lindell's verbal request for medical care and documentation of the injury. C.O. II Lunde then came to Lindell's cell, laughed at Lindell, then left, instead of documenting the injury and informing a supervisor, as Lindell requested. That evening, Lindell sent out a request to Anthony Meli, asking that Meli initiate criminal prosecution of C.O. II Moungey, document the injury and administratively discipline C.O. II Moungey; Meli replied to that request (Lindell gave that reply to W.C.I.'s Inmate Complaint Examiner (I.C.E.), to be made part of the file for the grievance that Lindell filed), but never arranged for documentation/photographing of the injury, nor addressed Lindell's request for prosecution. The next day, while seeing Lindell for another matter, nurse Meserole treated the injury, but refused to provide Lindell with a Band-Aid — nurse Meserole said she documented the injury. Lindell filed a grievance about this incident, which was assigned one of the #s noted at the end of the previous bullet point. However, nobody ever came to photograph the injury, which, today, has healed closed yet leaves a tear-drop-sized scar.

Crimes Believed to Have Been Committed

Based on the foregoing facts, Lindell believes that W.C.I.'s Administration is guilty of violating, as a Party to a Crime under Wis. Stats. §939.05, the following laws:

§940.29 Abuse of residents of penal facilities
§940.19 Battery (1) + (2)
§940.225 Sexual assault, subs (1)(b) + (c), (2)(b), (c) + (b)
§946.12 Misconduct in public office (2) + (3)
§947.013 Harassment (1m)
§940.45 Intimidation of victims, - felony, subs. (1), (2), (3) + (4),
as well as federal law, such as

18 U.S.C. §241 Conspiracy against rights

18 U.S.C. §242 Deprivation of rights under color of law

18 U.S.C. §2243 Sexual abuse of a minor or ward, sub. (b)

Lindell believes that C.O. II Moungey is guilty of violating, in relation to Lindell, Wis. Stats. §940.29, §940.19(1), §946.12(2) + (3), §947.013(1m) and §940.45(1) - (4), along with 18 U.S.C. §242.

Conclusion

As the facts support Lindell's belief that the forenoted crimes have been committed, Lindell prays that this court will initiate a John Doe proceeding, and, should the D.A. decline to prosecute these crimes, conduct an evidentiary hearing, consider the D.A.'s file and the forenoted witnesses, etc., allow Lindell to be heard through video-conferencing, then direct appropriate prosecution(s) and referrals to the E.D. Wis. U.S. Attorney

Dated 27 July 2013

Courteously submitted,

Nate A. Lindell

Nate A. Lindell #303724

WCI

P.O. Box 351

Waupun, WI

53963-0351

Ph. 920-324-7267

STATE OF WISCONSIN ex rel
NATE A. LINDELL

FILED
IN THE CIRCUIT COURT

Petitioner
vs.

AUG - 2 2013

JOHN DOE
Respondent

Dodge County Wi
Lynn M. Hron
Clerk of Courts

Case No. 13 IP 32

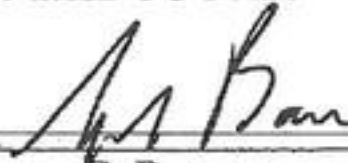
DECISION

Petitioner requests a John Doe investigation against staff members of Waupun Correctional Institution. He cites many grievances against employees of the Department of Correction. The only grievance that alleges any physical injury to him is a cut to the wrist from a handcuff. The petitioner does not demonstrate a reason to believe a crime was committed as handcuffing is a normal part of being a prisoner, there was no allegation that the cut was intentional, and would lack prosecutive merit as any crime would be impossible to prove at trial beyond a reasonable doubt. These matters should be handled via the internal complaint process or civil litigation. This is not a criminal matter. The Court denies the petition for a John Doe without further proceedings.

THIS IS A FINAL DECISION FOR APPEAL PURPOSES.

Dated: August 2, 2013

BY THE COURT:



Steven G. Bauer
Circuit Court Judge

cc. Nate A. Lindell

8-2-13
BSB

State of Wisconsin ex rel.

Nate A. Lindell,

Petitioner

Case No. 13-IP-32

vs.

John Doe,

Respondents

Notice + Motion for Reconsideration of the 2 August 2013
Order of Judge Bauer's Dismissing this Petition

To: Clerk, Dodge Co. Cir. Ct. — no other parties presently
210 W. Center St.

Juneau, WI 53039

PLEASE TAKE NOTICE, that pursuant to Wis. Stats. §805.17(3) and any other applicable statutes, the forenamed petitioner ("Lindell"), proceeding pro se, hereby moves this court to reconsider Judge Steven G. Bauer's 2 August 2013 order dismissing this John-Doe action without having referred it to the district attorney (D.A.) for investigation and without considering any resultant file and other relevant evidence first. In support of this motion, Lindell represents as follows:

Judge Bauer's one page order concluded, in relevant part:

The petitioner does not demonstrate a reason to believe a crime was committed as handcuffing is a normal part of being a prisoner, there was no allegation that the cut was intentional, and would lack prosecutive merit as any crime would be impossible to prove at trial beyond a reasonable doubt.

Judge Bauer entirely disregarded Lindell's other specific allegations of other incidents, such as:

- on 1 January 2013, C.O. II Moungey at W.C.I. falsely noted in a prisoner's file that the prisoner insulted a

a supervisor to get a prisoner in trouble, which would violate Wis. Stats. § 946.12 Misconduct in public office, sub. (a), because such false entries into prisoners' files exceeds C.O. II Moungey's authority. (Petition at ¶s 1, & pp. 4 & 5) - admittedly a minor allegation, but relevant because Lindell helped that prisoner/victim file suit against C.O. II Moungey (Petition ¶ 1).

• As described in post #141, "Ongoing Abuse of Prisoners in W.C.I.'s Seg. Complex," posted on Lindell's blog - <http://between.thebars.org/blogs/540/> - on 5 July 2013, which Lindell obviously wanted and wants the court to take judicial notice of ¹ under Wis. Stats. § 902.01, "[n]umerous acts of severe physical and sexual abuse of W.C.I. prisoners in W.C.I.'s segregation complex have occurred between 1 January of 2013 through June 30th of 2013," which W.C.I.'s warden, security director, deputy warden, seg. supervisor and seg. Lt. "all knew about... yet refused to... tak[e] any measures to prevent such abuse from continuing..." At the very least this specifically alleges a violation of Wis. Stats. § 940.29 Abuse of residents of penal facilities (Petition ¶ 2), although Lindell identified other criminal laws also violated (Petition pp. 4-5), and it would also violate Wis. Stats. § 940.34 Duty to aid victim or report crime. This serious allegation was disregarded by Judge Bauer.

and, inter alia,

• "on 9 July 2013... C.O. II Moungey slapped... handcuffs onto Lindell's wrists, cutting Lindell's left wrist... the skin torn, and a drop of blood oozed out. Lindell asked 'What the fuck are you doing?' & showed C.O. II Moungey the injury. C.O. II Moungey replied 'That's what ya get,' as witnessed by a neighbor of Lindell's. And this happened about an hour after a prisoner below Lindell's cell received a suit against C.O. II Moungey that Lindell wrote, which C.O. II Moungey had, immediately before cutting Lindell with the handcuffs, told Lindell, "I saw that suit

you did for Cooper." (Petition, pp. 3-4). This, given the reasonable inferences that must be drawn in the petitioner's favor at this stage, see Williams v. Fielder, 282 Wis.2d 486, 488 (WI App. 2005), supports the possibility of a violation of § 940.29 Abuse of residents of penal facilities, § 940.19 Battery: (1) + (2), § 947.013 Harassment (1m), and § 940.45, given that Lindell was possibly targeted for helping the victim of a crime report and try to prosecute the criminal, Mouney.

- And the precisely described (Petition p. 4) sexual assault that C.O. II Mouney and others inflicted on W.C.I. prisoner Tyrus Lee Cooper, contrary to Wis. Stats. § 940.225 sexual assault, subs. (1)(b), (2)(b), (c) + (h)

Argument

This court applied a far too strict scrutiny of Lindell's Petition. It's not a preliminary hearing, where Lindell must show probable cause to believe that a crime has been committed. Rather, the 'John Doe complaint... need not name a particular accused, nor need it set forth facts sufficient to show that a crime has probably been committed. The John Doe is, at its inception, ... an inquest for the discovery of crime....'

Williams v. Fielder, supra at 488 (quoting S. X. B. Keimann v. Circuit Court for Dane County, 214 Wis.2d 605, 624 (1997)).

All Lindell's Petition needed to do was state enough facts to support his (not this court's) "reason to believe" that some crime has been committed. By specifying the dates, approximate times, potentially inculpatory circumstances and even the names of the possible perpetrators, and the crimes (and their subsections) that might apply, Lindell's Petition easily satisfied the John Doe proceedings light initial scrutiny and thus should have been referred to the D.A. for further investigation.

This is not to say that Lindell's Petition will or must proceed beyond the initial inquest stage, although Lindell believes it

will. All the law requires, at this point, is that the court refer the matter to the D.A. for an appropriate investigation.

Upon conclusion of the investigation, the D.A. will need to provide this court with any file thus produced and notify this court whether or not the D.A. will prosecute any charges.

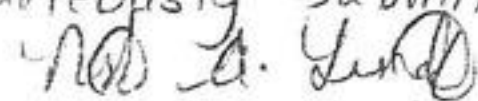
Then, if the D.A. declines to prosecute any charges, it will be up to this court to scrutinize the file, determine if any charges are appropriate, and, possibly, direct appropriate prosecutions or dismiss the action. But, at this point, it's erroneous for this court to dismiss the petition.

Conclusion

This court is obliged to refer Lindell's Petition to the D.A. in order to appropriately investigate it and decide whether or not, based on the results of the investigation, to prosecute any charges.

Dated: 20 August 2013

Courteously submitted



Nate A. Lindell

#303724

W.C.I.

P.O. Box 351

Waupun, WI

53963-0351

State of Wisconsin ex rel.
Nate A. Lindell,

Petitioner

Case No. 13-IP-32

vs.

John Doe,

Respondents

Notice & Motion to Substitute Judge, Pursuant to § 801.58

To: Hon. Steven G. Bauer

— no other parties presently

Dodge Co. Cir. Ct.

210 W. Center St.

Juneau, WI 53039

PLEASE TAKE NOTICE, that pursuant to Wis. Stats. § 801.58, and any other applicable laws, the forenoted petitioner, Lindell, requests that another judge be assigned to resolve the accompanying motion for reconsideration.

As there is no room for discretion to deny this motion, it should be granted.

Dated + Mailed ²⁰~~2~~ August 2013

Courteously Submitted

Nate A. Lindell

Nate A. Lindell

D.O.C. #303724

W.C.J.

P.O. Box 351

Waupun, WI

53963-0251

Ph. 920-324-7267

STATE OF WISCONSIN ex rel
NATE A. LINDELL

Petitioner

vs.

JOHN DOE

Case No. 13 IP 32

Respondent

DECISION

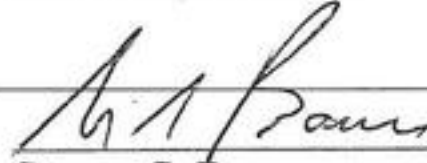
Petitioner moves the Court for a substitution of judge stating "there is no room for discretion to deny this motion, it should be granted." The Court disagrees. The Court has already issued the decision in the case, so the request is untimely. The petitioner's motion for substitution of judge is denied.

Further, the Petitioner raises the same issues as raised in the initial John Doe complaint but argues against the Court's decision. The Petitioner's motion for reconsideration is denied as nothing has been raised warranting reconsideration. See *Koepsell's Olde Popcorn Wagons, Inc. v. Koepsell's Festival Popcorn Wagons, Ltd.*, 2004 WI App 129, P46 (Wis. Ct. App. 2004).

THIS IS A FINAL DECISION FOR APPEAL PURPOSES.

Dated: August 27, 2013

BY THE COURT:



Steven G. Bauer
Circuit Court Judge

cc. Nate Lindell
Kurt Klomberg, DA

Appendix 5 - page 1

STATE OF WISCONSIN ex rel
NATE A. LINDELL

Petitioner

vs.

JOHN DOE

Respondent

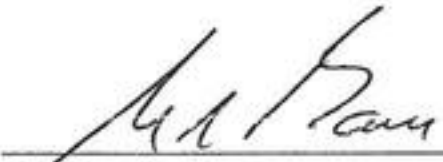
Case No. 13-IP-32

DECISION

Petitioner again requests substitution of judge. The Court has reviewed the record in this matter, and it is clear that the petitioner did not ~~get~~ any notice of the court official assigned to this matter. It is unclear whether petitioner has the right to substitution under the circumstance of this case, but in the interest of justice and judicial economy, the Court believes that allowing substitution is the most prudent decision. The Court grants the petitioner's request for substitution.

Dated: September 17, 2013

BY THE COURT:



Steven G. Bauer
Circuit Court Judge

cc. Nate Lindell
Kurt Klomberg, DA

STATE OF WISCONSIN ex rel.
NATE A. LINDELL,
Petitioner,

vs.

CASE NO. 13 IP 32

JOHN DOE(s),
Respondents.

MEMORANDUM DECISION AND ORDER

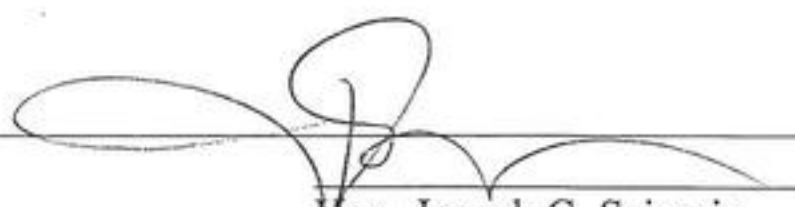
Petitioner, an inmate at Waupun Correctional Institution, has filed a John Doe petition, pursuant to sec. 968.26, Stats., requesting a criminal investigation against WCI staff. His petition was initially denied by written order issued by Hon. Steven G. Bauer August 2, 2013. Petitioner then filed a motion for reconsideration and a request for substitution of judge, which was granted. Upon its review of the motion, the Court will deny the motion for reconsideration.

For a John Doe petition to proceed, the petitioner needs to demonstrate "reason to believe that a crime has been committed within the judge's jurisdiction," sec. 968.26(2)(am), Stats. In this case, as Judge Bauer's original decision noted, the only allegation that could be of concern in a John Doe proceeding is the allegation that Petitioner was cut by handcuffs at the institution. This Court agrees with Judge Bauer, however, that this allegation is not serious enough to warrant a criminal investigation, and should instead be pursued through civil procedures.

THEREFORE, the motion for reconsideration is hereby DENIED.

Dated this 18 th day of October, 2013.

BY THE COURT:



Hon. Joseph G. Sciascia
Circuit Court Judge, Branch III
Dodge County, Wisconsin

Distribution: Petitioner

FILED
IN THE CIRCUIT COURT

OCT 28 2013

Dodge County WI
Lynn M. Hron
Clerk of Courts

Appendix p. 17

Appendix 7 - page 1

STATE OF WISCONSIN, COURT OF APPEALS, DISTRICT

Nate A. Lindell,
Petitioner

v.

Appeal No.

Dodge County Circuit Court

Hon. Joseph G. Sciascia,
Respondent

Petition for Supervisory Writ for the Dodge County Circuit Court, the Honorable Joseph G. Sciascia, Branch III, presiding in Circuit Court Case No. 13-IP-32

PETITION FOR SUPERVISORY WRIT
WITH MEMORANDUM IN SUPPORT

Nate A. Lindell, pro se
D.O.C. #303724
W.C.I.
P.O. Box 351
Waupun, WI
53963-0351

<http://betweenthebars.org/blogs/540/>

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I. Issues Presented for Review

A. May a Circuit Court Dismiss a John Doe Petition Filed Under §968.26 Because It Believes the Allegations Are Not Serious Enough to Warrant Investigating But Should Be Pursued Civilly?

The Circuit Court Answered "YES"

B. Does a John Doe Petition By a Prisoner Asserting a Belief By Said Prisoner that staff Committed Crimes Against Other Prisoners Warrant Proceedings Under §968.26?

The Circuit Court Answered "No"

C. Did Lindell's Petition Under §968.26 Support His Request for Further Proceedings, Such as an Investigation Into It?

The Circuit Court Answered "No"

II. Statement of Facts

In a five page Petition (Appx. pp. 11-15) dated 27 July 2013, Lindell stated that:

A. a lie noted by a guard at W.C.I., C.O. II Moungey, which caused another prisoner to suffer (Appx. p. 11 ¶1), which Lindell helped the prisoner sue over (id.);

B. by reference, an article on Lindell's blog (i.e. Prometheus Writes!, <http://betweenthebars.org/blogs/540/>), which described "[n]umerous acts of severe physical and sexual abuse of W.C.I. prisoners in W.C.I.'s segregation complex..." that had occurred in the preceding 6 months.¹ (Appx. p. 12), which all the members of W.C.I.'s Administration — identified by Lindell in his Petition — knew of yet took no action to prevent from continuing, contrary to their lawful duty, as declared by Wis. Admin. Code § DOC 306.04 Responsibility of employees (id.);

C. three W.D.O.C. Work Rules (i.e. #11, 12 & 13) that W.C.I.'s Administration has allowed and is allowing to be violated by permitting staff such as C.O. II Moungey to repeatedly physically and sexually assault prisoners in seg. (Appx. p. 12 ¶3-4);

D. his litigation and advocacy for "decent, humane treatment of prisoners, particularly mentally-ill prisoners," has made Lindell unpopular with abusive staff. (Appx. p. 12 ¶5);

E. that C.O. II Moungey informed Lindell, mid-March of 2013, that C.O. II Moungey knew Lindell helped Hamlin, another

F.N. 1 Although Lindell's Petition didn't demand it, Lindell implicitly sought judicial notice of the facts in that article, as Wis. Stats. § 902.01 permits. This was made clear in p. 2 of the motion for reconsideration Lindell filed in the Circuit court. Lindell specifically asks this court to judicially notice the facts in that article and to direct the circuit court to do the same on remand.

W.C.I. Seg. prisoner (at the time — Mr. Hamlin is now in Big Sandy U.S.P., located in Inez, KY, according to the W.D. Wis. U.S. Court's clerk), filed suit against C.O. II Moungey (Appx. p.12 ¶6);

F. since the ides of March 2013, C.O. II Moungey harassed Lindell in various ways, such as by

- i) lying to a rookie C.O. so that Lindell was denied a phone call;
- ii) refusing to take Lindell to recreation;
- iii) tearing apart Lindell's cell, taking Lindell's pen and forms;
- iv) always being the guard who escorted Lindell to rec.

(Appx. p.13), culminating with Moungey, on 9 July 2013, slapping handcuffs onto Lindell's wrists, causing a cut on the inside of Lindell's left wrist (Appx. p.13), to which C.O. II Moungey replied, "That's what ya get," when Lindell confronted Moungey about it (Appx. p.14). This injury was inflicted on Lindell shortly after C.O. II Moungey told Lindell that he, C.O. II Moungey, saw the lawsuit that Lindell wrote and mailed to another W.C.I. prisoner about C.O. II Moungey sexually assaulting the other prisoner. (id. p.14).

G. that despite a verbal request to C.O. II Lunde and a written one to W.C.I. Security Director Tony Meli, the cut to Lindell's wrist was not documented nor photographed, although a nurse treated it the next day. (id.)

The Petition explicitly stated what crimes "Lindell believes that W.C.I.'s Administration is guilty of violating," (Appx. pp. 14-15), and the crimes "that C.O. II Moungey is guilty of violating, in relation to Lindell," (id. p.15).

Apparently within days of receiving Lindell's forenoted Petition, Judge Bauer decided to dismiss it (Appx. p.16), apparently because it only deemed a "physical injury" to merit criminal investigation, concluded that there was no reason to believe a crime was committed "as handcuffing [and, apparently, cuts] is a normal part of being a prisoner, [and] there was no allegation

that the cut was intentional, and would lack prosecutive merit.... These matters should be handled via the internal complaint process or civil litigation." (id.)

After at first being denied his request for substitution of judges, Lindell's request for substitution was granted, and Judge Sciascia denied Lindell's motion for reconsideration by "agree[ing] with Judge Bauer..." (Appx. p.17), in a 28 October 2013 order.

III. Relief Sought

Lindell prays this court will direct the Circuit Court to comply with §968.26(a)(am), and the purpose of the John Doe proceedings, "refer the complaint to the district attorney," so that the D.A. may comply with sub.(a)(b), and, if the D.A. declines to prosecute charges, "convene a proceeding" to determine if any crimes were committed and direct appropriate prosecutions).

Lindell also asks that this court make clear that crimes against prisoners need not be based on physical injuries to warrant prosecution and that one prisoner's John Doe petition may initiate the inquestorial process concerning crimes committed against persons other than himself or herself.

IV. Reasons This Court Should Take Jurisdiction

A. The Circuit Court Is Refusing to Comply With §968.26 By Not Referring Lindell's Petition to the D.A. for Investigation, As Lindell's Petition Provides Factual Support for Lindell's Asserted Belief that Crimes Have Been Committed Against Himself and Other Prisoners.

Back in State ex rel. Reimann v. Circuit Court for Dane County, 214 Wis.2d 605, 624 (1997), the Wisconsin Supreme Court explained that:

A John Doe complaint... need not name a particular accused, nor need it set forth facts sufficient to show that a crime has probably been committed. The John Doe is, at its inception,

... an inquest for the discovery of crime....

(citations omitted). Although, due to lobbying by those interested in hiding the crimes that occur in prisons,² the John Doe procedure was modified in recent years, Reimann was not legislated away, but still is good law. Naseer v. Miller (In re Doe), 329 Wis.2d 724, 733-734 (Ct. App. 2010). All that a John Doe Petition must do for the inquestorial process to begin is state facts sufficient to show that the Petitioner — not the court — has reason to believe that a crime has been committed within the judge's jurisdiction...."

By providing dates, names, even times, circumstantial evidence that indicates criminal, malicious motive,³ along with stating

F.N.2. This court is just as aware as I am of how concentrated prisons are in Dodge County, where such lobbyists are, proportionally, highly concentrated.

F.N.3. One of the crimes Lindell charged in his Petition (Appx. p.15) is §940.45 Intimidation of victims; felony, which requires evidence that someone "knowingly and maliciously...dissuades, or... attempts to so... dissuade, another person" from helping a crime victim report a crime, seek prosecution of the criminal or the criminal's arrest. The usual means of showing a person's state of mind is circumstantial evidence, such as their statements. E.g., see DeWalt v. Carter, 224 F.3d 607, 612 f.n.3 (7th Cir. 2000) (A person's words can evince their motives) (cites omitted).

the specific criminal statutes — with their subsections — he believes were violated, Lindell's Petition far exceeded the low threshold that must be passed in order to enter into the inquest-orial phase.

The statute does not require a John Doe Petitioner to articulate the Petitioner's reason for believing a crime was committed to the circuit court, let alone demonstrate "probable cause" that a crime actually has been committed. There is no requirement that a John Doe Petition "alleg[e] that [a] cut was intentional" nor that a crime is going to be easy for a prosecutor to prove at trial (assuming the D.A. in Dodge county even tries to try a prison employee...) in order for the inquest to begin. Such considerations are not for the judge to make, but for the D.A. to possibly consider after the judge refers the Petition to the D.A. See §96B.26(2)(b).

If + when the D.A. returns his or her "written explanation why he or she refused to issue charges," id., possibly the D.A. may justify his refusal to prosecute any charges for the reasons the judge stated, but that's for the D.A. and not the judge to decide, after the D.A. investigates the accusations and thus can make a reasonable, informed decision.

To be clear, Lindell's Petition provided facts that support the charges he identified in the last page of his Petition, such as

- §940.29 Abuse of residents of penal facilities, which criminalizes the "abuse[], neglect[] or ill treatment[]" of prisoners by prison staff. This would apply to Lindell's factual accusations that

- A. Moungey lied about a prisoner to make him suffer;
- B. W.C.I.'s seg. staff and administration regularly beat, taze, grope the genitals and anuses of prisoners and put these victims in cold, filthy cells with no clothing, without justification;⁴

F.N.4 This is what Lindell's article mentioned in F.N. 1, "Ongoing

C. C.O.II Moungey cut Lindell with handcuffs, apparently on purpose.

• 3946.12 Misconduct in public office, subs. (2) + (3), which criminalizes state employees, such as prison staff, acts "in excess of [their] lawful authority or... forbidden by law to do..." and acts or omissions that are "inconsistent with [their] duties... or the rights of others..." This may be to Lindell's factual allegations that:

A. W.C.I.'s Administration has allowed and is allowing staff to violate the W.D.O.C.'s Work Rules by physically and sexually abusing prisoners;

B. C.O.II Moungey harassed Lindell because Lindell helped two other prisoners sue Moungey.

• 3940.45 Intimidation of victims; felony, subs (1)-(4), which makes criminal "knowingly and maliciously... attempt[ing] to ... dissuade another..." who helps a crime victim report the crime "...to any judge," tries to get the criminal(s) charged or arrested. This charge is supported by Lindell's factual accusations that C.O.II Moungey and other W.C.I. staff conspired — sub. (4) — to systematically abuse prisoners in W.C.I.'s Seg. unit, used force — sub. (1) — to try and dissuade Lindell's litigation about their conspiracy, injured Lindell and damaged his property — sub. (2) — in their efforts to dissuade Lindell, and — sub. (3) — threatened by implication to inflict violence or injury or damage on Lindell or his property.

These are some of the charges Lindell asserted apply to the events described in his Petition.

After being investigated by the D.A., it may or may not be

F.N. 4 (cont.) Abuse of Prisoners In W.C.I.'s Segregation Unit, reveals. A subsequent blog post reveals more, subsequent similar abuse.

discovered that other crimes, which Lindell hasn't even identified in his Petition, may also be implicated. Nothing in the John Doe statute limits the charges to those specified in the Petition, nor required Lindell to even list suspect charges.

WHEREFORE, Lindell prays that this court will direct the Circuit court to properly apply the John Doe statute.

Dated 3 December 2013

Very Truly,
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* Note: I was told today that I will be going into Federal custody at any time, as part of an inter-governmental custody transfer. My address may change unexpectedly. You may want to find out what it is before mailing me anything.