

Seeking Justice for Waupun Correctional Institution's (W.C.I.'s) Segregated Prisoners

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You may find it strange that a prisoner in a Pennsylvania federal prison is fighting to end the physical & sexual abuse in one of the WI D.O.C.'s Isolation units, but, it's no stranger than the sudden, surreal transfer of me out of that unit and miserable six-day trip to my current prison.

It seems obvious to me that the transfer had something to do with the four federal civil-liberties suits & had pending against WI's D.O.C., the multiple suits I'd drafted for other prisoners (also pending against the WI D.O.C.), the class-action I was struggling to prepare, and a petition (known as a John Doe Petition) seeking the indictment of W.C.I.'s Administration for condoning and participating in physical and, yes, sexual abuse of mostly mentally ill prisoners sealed in segregation cells, some for years on end. The fact that, three months later, I still haven't received my law books and only just received my legal papers and evidence for those cases sorta reveals the reason for the transfer.

They couldn't stop one case — my forenoted John Doe Petition. See the WI Court of Appeals attached 14 Feb 2014 order.

Happy Valentine's Day WI D.O.C.

You may see specific details of the abuse at issue described in previous posts on this blog, titled

"Ongoing Abuse of Prisoners in W.C.I.'s Segregation Complex," and "Continuing Abuse of Prisoners in W.C.I.'s Segregation Complex"

Of course we still must depend on the D.A./Prosecutor for the county W.C.I. is located in to truly investigate & then prosecute W.C.I.'s Admin. But the ruling is a step towards that.

Never compromise on your human dignity/rights!

Always Committed,
Nate



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You are hereby notified that the Court has entered the following opinion and order:

2013AP2695-W

State of Wisconsin ex rel. Nate A. Lindell v. Circuit Court for
Dodge County and the Honorable Joseph G. Sciascia, presiding
(L.C. #2013IP32)

Before Blanchard, P.J., Lundsten and Higginbotham, JJ.

Nate Lindell petitions for a supervisory writ to compel Judge Joseph Sciascia to refer Lindell's John Doe complaint to the district attorney. *See* WIS. STAT. § 968.26(2)(am); WIS. STAT. Rule 809.51(1). Lindell asserts that his John Doe complaint sets forth reason to believe that a crime has been committed. *See Naseer v. The Honorable James Miller*, 2010 WI App

142, 329 Wis. 2d 724, 793 N.W.2d 209. For the following reasons we grant the supervisory writ of mandamus.

According to Lindell's petition and supporting material, Lindell submitted a John Doe complaint to Judge Steven Bauer alleging misconduct by prison staff. One allegation was that a particular correctional officer, at a specific time on a specific date, while escorting Lindell to recreation, "slapped the handcuffs onto Lindell's wrist, causing Lindell to jerk his hand 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 also claimed that the officer told Lindell, "That's what [you] get," and had said to Lindell about an hour previous to the incident, "I saw that suit you did for [another inmate]," referencing Lindell's assisting another inmate in initiating a lawsuit against the officer alleging sexual assault.

Lindell also alleged the following: "Numerous acts of severe physical and sexual abuse of [Waupun Correctional Institution] prisoners in W.C.I's segregation complex ... between 1 January of 2013 through June 30th of 2013." Lindell stated that prison staff "knew about this ongoing systemic abuse, yet refused to ... tak[e] any measures to prevent such abuse from continuing to occur. In some cases, [identified staff] directly supervised or engaged in this systemic abuse."

Judge Bauer declined to refer the complaint to a district attorney. Lindell sought a substitution of judges, and Judge Sciascia was assigned to this case. Judge Sciascia then made the same determination as Judge Bauer, concluding that the John Doe complaint did not warrant referral for a criminal investigation.

Under WIS. STAT. § 968.26(2)(am), a John Doe judge “has a mandatory duty to refer a John Doe complaint to the district attorney only if the four corners of the complaint provide a sufficient factual basis to establish an objective reason to believe that a crime has been committed in the judge’s jurisdiction.” *Naseer*, 329 Wis. 2d 724, ¶11. If a John Doe judge violates a plain duty under the John Doe statute, a writ is an appropriate remedy. *Id.*, ¶5.

The State contends that Judge Sciascia did not have a plain duty to refer Lindell’s complaint to the district attorney because nothing in Lindell’s complaint provided an objective reason to believe that a crime has been committed. The State asserts that Lindell’s allegation that an officer cut his wrist with handcuffs does not satisfy the “reason to believe” standard, and that Lindell’s claim of physical and sexual abuse is a conclusory allegation that does not rise to the level of an objective, factual assertion. *See State ex rel. Reimann v. Circuit Court for Dane County*, 214 Wis. 2d 605, 623-24, 571 N.W.2d 385 (1997).

We conclude that Lindell’s claim that an identified officer cut Lindell’s wrist by slapping on handcuffs, along with the claim that the officer made contemporaneous statements indicating a specific motive to hurt Lindell, meets the “reason to believe” standard articulated in *Naseer*.

In *Naseer*, 329 Wis. 2d 724, ¶14, we determined that a prisoner’s “allegations that a prison guard squeezed his neck to the point of impairing his breathing, without any legitimate purpose for the chokehold, could conceivably support a charge of battery or some other offense.” We therefore issued a writ directing the John Doe judge to refer the John Doe complaint to the district attorney. *Id.*

We are unable to distinguish this case from *Naseer*. As in *Naseer*, Lindell’s allegation that a correctional officer intentionally caused Lindell physical harm could conceivably support a

charge of battery or some other offense. Because the four corners of the complaint provide “an objective reason” to believe that a crime has been committed, the John Doe judge must refer the complaint to the district attorney.

As to Lindell’s allegations that prison staff directly supervised and engaged in acts of physical and sexual abuse in WCI’s segregation complex during a specific six-month period, we determine that this is a close call. We agree with the State that the allegations of abuse are general. In any event, we determine that Lindell’s allegation that a correctional officer slapped handcuffs on Lindell’s wrist, causing pain and injury, together with the alleged statements indicating the act was intentional and in retaliation for Lindell’s legal assistance to another inmate, is a more clear-cut allegation of criminal activity. Because the John Doe complaint provides “an objective reason” to believe that at least one crime was committed, the John Doe judge was required to refer the complaint to the district attorney.¹

Therefore,

IT IS ORDERED that the supervisory writ of mandamus is granted. We direct Judge Sciascia to refer Lindell’s John Doe complaint to the Dodge County District Attorney’s office.

Diane M. Fremgen
Clerk of Court of Appeals

¹ The State also addresses Lindell’s allegations that correctional officers acted improperly in the following ways: making false reports as to prisoner conduct and conducting strip searches of prisoners; denying Lindell recreation time; and searching Lindell’s cell and leaving his papers in a mess. The State asserts that none of those allegations provide reason to believe that a crime was committed. Because we determine that at least one allegation in the John Doe complaint meets the “reason to believe” standard, we need not address the question of whether these additional allegations require referral to the district attorney.