

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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DEWAYNE KNIGHT,

Plaintiff,

v.

Case No. 13-C-862

WILLIAM POLLARD, ET AL.,

Defendants.

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**DEFENDANTS' PROPOSED FINDINGS OF FACT**

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The defendants, by their attorneys, submit these proposed findings of fact in support of defendants' motion for summary judgment.

**Statement of the Case**

1. Knight is a DOC inmate and was incarcerated at WCI during the time period relevant to this case. (Affidavit of Ray, ¶ 4).

2. Pursuant to the Screening Order, Knight was allowed to proceed against the defendants on a 42 U.S.C. § 1983 cause of action for his claims that he was subjected to excessive use of force on December 29, 2012, when defendant Beahm allegedly threw him down a flight of stairs and then, along with defendants Benson and Bulder-Ronzoni, allegedly punched Knight while he was in restraints; that Knight was subject to an unreasonable and excessive strip search by defendants Beahm, Benson, Burns, and Wenzel; that defendants Bayer refused him medical treatment; and that defendants Greff, Meli, O'Donnell, Facktor, Pollard and Strahota refused to acknowledge Knight's prisoner complaints. (Dkt. #7, Order, 9-3-2013, p. 3 of 5).

**Adult Conduct Report 2342151**

3. On January 2, 2013, Knight was given a copy of Conduct Report 2342151 and was charged with battery, threats and disobeying orders for the December 29, 2012 incident.

(Affidavit of Ray, ¶ 5, Exhibit A at 000003).

4. The Conduct Report stated as follows:

On the above date and appropriate time, I, officer Beahm was working my assigned post as the segregation two officer when I was informed by officer Burns that inmate Knight, Dewayne DOC #476366 was refusing to come out of his shower stall. Due to Knight's non-compliance with staff directives I went to escort inmate Knight to the strip cell and then move him to A-Range. I went and gave Knight another directive to come out in which he complied. I informed Knight that he was going to be moved to A-Range and Knight became mad. Knight then stated "I am not moving to A-Range without problems." I informed Knight that I was escorting him to the strip cell while we got a room ready for him. During the escort we reached the steps going down toward the seg corridor. On the second to last step inmate Knight became tense and twisted his body in an attempt to pull away from my escort hold. I tightened my grip by his left elbow when he jumped the last two steps and turned to face me. I then attempted to direct inmate Knight to the ground in a controlled decent. Due to inmate Knight facing me when I went to direct him to the ground he started backing up. An officer was sitting at the corridor table behind where Knight pulled away. Knight's backing up and me directing him down trying to control his decent he landed on the officers back and then slid down to the floor. Other staff attempted to assist by securing inmate Knight while on the floor however inmate Knight continued to resist and was kicking his feet which landed two kicks to the right side of officer Ronzoni's face. (upper cheek area). Staff were yelling for inmate Knight to stop resisting. Once staff had inmate Knight secure on the ground Lt. Wenzel arrived. Inmate Knight started yelling "I want the DVRs and I am gonna sue you Beahm." Inmate Knight then said "just wait Beahm, your time is coming. You'll get yours." At that time Lt. Wenzel came over and informed Knight that his threats were inappropriate and needed to stop. Staff then assisted Knight to his feet and escorted him to the strip cell where he was given medical attention and a staff assisted strip search was performed. Knight was placed into control status in A-227 per Lt. Wenzel without further incident.

(Affidavit of Ray, ¶ 5, Exhibit A at 000003-4).

5. The Conduct Report was drafted and signed by its author, Beahm on December 29, 2012. (Affidavit of Ray, ¶ 5, Exhibit A at 000003).

6. On January 16, 2013, a Disciplinary Hearing was held on Conduct Report 2342151. (Affidavit of Ray, ¶ 6, Exhibit A at 000003).

7. As part of the disposition for Conduct Report 2342151 on January 29, 2013, Knight was found guilty of battery, threats, and disobeying orders, and was given 360 days

disciplinary separation. (Affidavit of Ray, ¶ 6, Exhibit A at 000003).

8. The records from the disciplinary hearing for Conduct Report 2342151 do not indicate that Knight raised claims or defenses related to excessive force at the hearing. For example, it does not indicate that Knight claimed defendants threw Knight down a flight of stairs and it does not indicate that Knight claimed that any of the officers punched Knight. (Affidavit of Ray, ¶ 7, Exhibit A at 000011-000012).

9. On January 29, 2013, Knight filed an appeal of the hearing officer's decision. (Affidavit of Ray, ¶ 8, Exhibit A at 00001).

10. The written appeal for Conduct Report 2342151 does not raise claims or defenses related to excessive force. For example, it does not allege that defendants threw Knight down a flight of stairs and it does not allege that any of the officers punched Knight. (Affidavit of Ray, ¶ 9, Exhibit A at 000001).

11. On January 31, 2013, the Warden affirmed the hearing officer's decision and sentence. (Affidavit of Ray, ¶ 10, Exhibit A at 00001).

### **ICRS Offender Complaints**

12. Knight filed Offender Complaints WCI-2013-102, WCI-2013-103, WCI-2013-801, WCI-2013-1945 and WCI-2013-1947 regarding the subject matter of this lawsuit. (Affidavit of Rose, ¶¶ 9, 11; Exhibit A at 000001).

13. On January 2, 2013, the Institution Complaint Examiner (ICE) acknowledged receipt of Offender Complaint WCI-2013-102. That same day, the ICE rejected Offender Complaint WCI-2013-102 as being outside the scope of the inmate complaint system pursuant to Wis. Admin. Code § DOC 310.08(2)(a), since Knight was challenging the factual basis or describing mitigating factors to explain his actions and behavior in Conduct Report 2342151. (Affidavit of Rose, Exhibit B at 000001-000003).

14. On January 7, 2013, the ICE received an appeal of the rejection of Offender Complaint WCI-2013-102. (Affidavit of Rose, Exhibit B at 000004).

15. On January 9, 2013, the reviewing authority decided that the ICE appropriately rejected Offender Complaint WCI-2013-102. (Affidavit of Rose, Exhibit B at 000005).

16. On January 2, 2013, the ICE acknowledged receipt of Offender Complaint WCI-2013-103. That same day, the ICE rejected Offender Complaint WCI-2013-103 as outside the scope of the ICRS, since Knight was challenging the factual basis or describing mitigating factors to explain his actions and behavior in Conduct Report 2342151. (Affidavit of Rose, Exhibit C at 000001-000003).

17. Knight did not appeal the rejection of Offender Complaint WCI-2013-103 to the appropriate reviewing authority. (Affidavit of Rose, ¶ 13, Exhibit C at 000001-000008).

18. On January 10, 2013, the ICE acknowledged receipt of Offender Complaint WCI-2013-801. The next day, the ICE recommended dismissal of Offender Complaint WCI-2013-801, with modification that, in accordance with DAI Policy & Procedure 310.00.01, the matter be processed pursuant to the applicable personnel rules and consistent with Executive Directive 16A because Knight was alleging sexual misconduct by Officer Beahm, Officer Benson and Officer Burns during a strip search after violating rules which resulted in Conduct Report 2342151. (Affidavit of Rose, Exhibit D at 000001-000002).

19. On January 14, 2013, in agreement with the ICE's recommendation for dismissal with modification, the Reviewing Authority dismissed Offender Complaint WCI-2013-801 with modification. (Affidavit of Rose, Exhibit D at 000003).

20. On January 22, 2013, the CCE acknowledged receipt of an appeal of Offender Complaint WCI-2013-801 and recommended that Offender Complaint WCI-2013-801 be dismissed with modification. (Affidavit of Rose, Exhibit D at 000005).

21. On February 4, 2013, the Office of the Secretary, in agreement with the CCE's recommendation, dismissed Offender Complaint WCI-2013-801 with modification. (Exhibit D at 000006).

22. On January 28, 2013, the ICE acknowledged Offender Complaint WCI-2013-1945. On January 31, 2013, the ICE rejected Offender Complaint WCI-2013-1945 as outside the scope of the ICRS, since Knight was challenging Conduct Report 2342151. (Affidavit of Rose, Exhibit E at 000001-000003).

23. On February 4, 2013, the ICE received an appeal of the rejection of Offender Complaint WCI-2013-1945. (Affidavit of Rose, Exhibit E at 000004).

24. On February 6, 2013, the reviewing authority decided that the ICE appropriately rejected Offender Complaint WCI-2013-1945. (Affidavit of Rose, Exhibit E at 000005).

25. On January 28, 2013, the ICE acknowledged receipt of Offender Complaint WCI-2013-1947. (Affidavit of Rose, Exhibit F at 000001).

26. On January 31, 2013, the ICE rejected Offender Complaint WCI-2013-1947 as being outside the scope since Conduct Report 2342151 had not yet been resolved through the disciplinary process. (Affidavit of Rose, Exhibit F at 000002-000003).

27. On February 4, 2013, the ICE received an appeal of the rejection of Offender Complaint WCI-2013-1947. (Affidavit of Rose, Exhibit F at 000004).

28. On February 7, 2013, the reviewing authority decided that the ICE appropriately rejected Offender Complaint WCI-2013-1947. (Affidavit of Rose, Exhibit F at 000005).

29. Offender Complaints WCI-2013-102, WCI-2013-103, WCI-2013-801, WCI-2013-1945 and WCI-2013-1947 do not contain allegations that Knight was denied medical care by Nurse Bayer. (Affidavit of Rose, ¶ 17).

30. Knight has not filed an offender complaint containing allegations that Knight was

denied medical care by Nurse Bayer. (Affidavit of Rose, ¶ 18).

Dated this 15th day of November, 2013.

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