

Thomas Dyer 2/11/2010

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH CAROLINA

DAVID A. BARDES, Individually, as a taxpayer, and as
next friend of his two minor children, D.A.B. and
A.P.B.,

Plaintiff,

-vs-

C/A No.:
2:08-487-PMD-RSC

JOHN H. MAGERA, ATTORNEY FOR SCDSS, THE STATE OF SOUTH
CAROLINA; CHARLESTON COUNTY, Vis-a-vis THE COUNTY
COUNCIL OF CHARLESTON; MCROY CANTERBURY, JR., ADMIN.,
CHARLESTON COUNTY; KATHLEEN M. HAYES, DIRECTOR, SCDSS;
ODESSA WILLIAMS, CHARLESTON COUNTY DSS, DIRECTOR; JAMES
A. CANNON, JR., SHERIFF OF CHARLESTON COUNTY; CORRECT
CARE SOLUTIONS, LLC; THE HON. WRIGHT TURBEVILLE; THE
HON. JOCELYN B. CATE; THE HON. PAUL W. GARFINKEL; JULIE
J. ARMSTRONG, CLERK OF COURT, CHARLESTON COUNTY;
WISHART NORRIS HENNINGER & PITTMAN, P.A.; AND WADE
HARRISON, ESQ., ALL INDIVIDUALLY AND IN THEIR OFFICIAL
CAPACITIES,

Defendants.

THE DEPOSITION OF THOMASINA T. DYER,

taken on behalf of the Plaintiff, on February 11, 2010,
commencing at 1:00 p.m., at the Charleston County Legal
Department, 4045 Bridgeview Drive, North Charleston,
South Carolina.

Reported by: Douglas K. Liperote
Spectrum Reporting Services

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APPEARANCES

FOR THE PLAINTIFF DAVID A BARDES:

Pro se
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Burlington, NC 27215

FOR THE DEFENDANT JOHN H. MAGERA/SCDSS:

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FOR THE DEFENDANT CORRECT CARE SOLUTIONS, LLC:

ROY P. MAYBANK, Esq.
Maybank Law Firm
531 Savannah Highway
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(843) 766-8101

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THOMASINA T. DYER, having been
first duly sworn, testified as hereinafter set forth.

DIRECT EXAMINATION

BY MR. BARDES:

Q. Ms. Dyer, I do not recall you being the
person that started to take my mugshot on April 3, so
I'm just going to ask some basic questions, and if you
can help me out, that would be great.

A. Okay.

Q. Have you ever been an inmate in the jail or
any jail before?

A. No, sir.

Q. How long have you worked at CCDC?

A. It will be six years in July.

Q. In July? And what job duties do you
perform?

A. What job do I do for them?

Q. Yeah, what job duties do you perform?

A. Now I'm in releasing.

Q. In releasing?

A. Yes.

Q. But back in April of 2006 you were?

A. An ID tech.

Q. That's the mugshot and fingerprints?

A. Yes.

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EXHIBITS

(No exhibits marked)

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Q. And who supervised you or who did you
report to?

A. Then or now?

Q. Then.

A. Then, that was Sergeant Wright.

Q. Sergeant Wright?

A. Yes.

Q. Is that a sergeant over the booking area
or --

A. Yes.

Q. -- how does the flow of command work?

A. No, I'm sorry it wasn't then. It was -- I
worked on that team. That was the booking sergeant
then. My sergeant then was Sergeant Hardwick -- was
it? I think. We change supervisors so much I really
can't remember if it was Hardwick, or it could have
been Durbin (ph).

Q. Okay. So in the booking area there would
be a sergeant then that's in charge of everyone in the
booking area?

A. Yes. But at that time ID was under
security. Booking is under special operations.

Q. Okay. And who would be the person that
would take a potential inmate or an inmate and put them
in a holding cell?

1 **A. It would depend on the situation.**
 2 Q. Would it be something that you would
 3 recommend to a guard to put someone into a holding cell
 4 for a while?
 5 **A. We put them in holding cells if we're**
 6 **finished with them. We put them in holding cells if**
 7 **they come in acting up. I mean, any of the officers,**
 8 **non-civilian people can put someone in a holding cell.**
 9 Q. Okay. When you said acting up you put
 10 them in a holding cell --
 11 **A. Yes, until they calm down.**
 12 Q. Until they calm down?
 13 **A. Yes.**
 14 Q. Is there a certain cell that you'd put them
 15 in that was used more frequently or one that was called
 16 the detention room?
 17 **A. Not necessarily, no. I mean, if it's when**
 18 **you came in, like if you come in the intake area if**
 19 **you're acting up, we put you in a drunk tank.**
 20 Q. What's the drunk tank?
 21 **A. It's a cell on the other side, on the**
 22 **intake side when you first come in the jail, you know,**
 23 **when you're standing on the wall and you -- they're**
 24 **taking your property and stuff?**
 25 Q. Right.

1 Cell 1613, and it has a blanket on it. And then here's
 2 a picture of the air vents in Cell 1613. And can you
 3 tell me what is hanging out of the air vents? It's
 4 kind of hard to look at.
 5 **A. It looks like tissue.**
 6 Q. Toilet paper?
 7 **A. Yeah.**
 8 Q. Why do you think inmates would try to cover
 9 up the air vents with toilet paper?
 10 **A. I have no idea, unless it would be to stop**
 11 **the air?**
 12 Q. Because it's hot or because it's cold do
 13 you think?
 14 **A. Well, all the cells have vents, not just**
 15 **one cell. All the cells have vents.**
 16 Q. Right. The blanket on the bench, why do
 17 you think a guard would place a blanket on the bench in
 18 Cell 1613?
 19 **A. I'm not sure. Most time we do not give**
 20 **inmates blankets in booking unless they're staying down**
 21 **there, being housed down there, but, otherwise, we**
 22 **don't give out blankets. We're not supposed to give**
 23 **out blankets anyway.**
 24 Q. Okay. I'd like to refer to the log which I
 25 think, Stephanie, you have as well. Somehow someone

1 **A. The cell is there. But if you start acting**
 2 **up on the other side, the booking side, we can put you**
 3 **in any cell. There's no particular cell we put you in,**
 4 **but we will put you by yourself.**
 5 Q. And how long if somebody is being put in
 6 there because they're acting up, how long would you
 7 normally keep them in there until they calm down I
 8 guess is the...
 9 **A. There's no certain time.**
 10 Q. A couple of minutes, an hour, two hours?
 11 **A. There's no certain time as in -- it depends**
 12 **on what they did. I mean, if the supervisor says,**
 13 **okay, let him out, let him out. If they just stop**
 14 **acting up we just let them out. There's no certain**
 15 **time. Like there's no rules that say we have to leave**
 16 **them in for 30 minutes or an hour, nothing like that.**
 17 Q. Okay. Are you familiar with what's called
 18 a cold cell?
 19 **A. A what cell?**
 20 Q. A cold cell?
 21 **A. No.**
 22 Q. It's a room that's unusually cold.
 23 **A. No.**
 24 Q. Let me, if I can, just give you a picture.
 25 We don't need this as an exhibit. This is a picture of

1 designated me as a -- if you flip to the second page it
 2 says that my suicide risk was changed from no to yes?
 3 **A. Uh-huh.**
 4 Q. So, by the time I got to the mugshot lady,
 5 why do you think, and, again, if you're not the right
 6 person you may not be able to answer this, but why
 7 wouldn't they take me immediately to suicide watch
 8 because that's the fast rule of the jail?
 9 MS. MCDONALD: Object to the form.
 10 You can still answer if you understand. If there's a
 11 confusing question, you can ask that it be restated.
 12 **A. Can you just restate that for me?**
 13 Q. Sure.
 14 MR. MAYBANK: Can I ask you just to
 15 do this, too? If you're going to ask about a specific
 16 line, just for the record, it makes it easier if you're
 17 asking her why they changed it, detail, you know, third
 18 one down.
 19 MS. MCDONALD: Is that Line 40
 20 maybe?
 21 MR. BARDES: It's line 28 where it
 22 says "suicide risk," no to yes.
 23 MR. MAYBANK: Okay.
 24 BY MR. BARDES.
 25 Q. And then the log later on shows me being

1 taken to suicide watch, but only after I was held in
 2 Cell 1613 for three days. I'm trying to find out why
 3 would they -- if they deemed someone to be a suicide
 4 risk like they did me, why wouldn't they take me to
 5 suicide risk up on the fourth floor? Why would they
 6 put me in a holding cell for three days?
 7 MS. MCDONALD: Object to the form.
 8 **A. I have absolutely no idea.**
 9 Q. Okay. That's what I thought. Do you know
 10 if 1613 is called a certain name?
 11 **A. No.**
 12 Q. No? Do you know why the air vents inside
 13 1613 are 233 percent larger than the other vents in the
 14 other cells?
 15 MS. MCDONALD: Object to the form.
 16 **A. I never looked at the vents to see if they**
 17 **were different.**
 18 Q. Okay. And I may have asked this to you
 19 before, but what's the normal holding time or captivity
 20 time in a holding cell?
 21 **A. Any holding cell?**
 22 Q. Yeah. Just until they're booked in the
 23 jail?
 24 **A. Basically, we put them in there until we**
 25 **have space in the jail. They move from booking to**

1 **another cell or unit within the jail. We have to keep**
 2 **them down there until we have space. If we don't have**
 3 **space, we can't move them.**
 4 Q. Okay. I was held in a cell for three days.
 5 Why do you think they didn't give me food, water,
 6 bedding or blankets?
 7 MS. MCDONALD: Object to the form.
 8 **A. I have no idea, sir.**
 9 Q. Okay. Do you know if there are any
 10 procedures or training or other types of conditioning
 11 or training with the use of the cold?
 12 **A. Can you repeat that?**
 13 Q. Yeah. I'm sorry. I need to rephrase it
 14 correctly.
 15 Are there any training -- is there any
 16 training in the jail in use of the cold in the cold
 17 cell?
 18 **A. No, sir.**
 19 Q. Okay. Why do you guys wear your winter
 20 jackets in the booking area?
 21 **A. Why do we wear jackets in the booking area?**
 22 Q. Yeah.
 23 **A. Depends on what time of the year it is.**
 24 Q. Because it's colder in the winter? I'd
 25 like to -- this is an exhibit --

1 **A. Well, the thermostats are set. So, I mean,**
 2 **if it's cold, then, yes, we would have on our jackets.**
 3 Q. Okay. If this is a --
 4 **A. We can't control the thermostats.**
 5 Q. Right. No, I understand that. This is an
 6 inmate request form that I had filled out, I believe it
 7 was the 13th of April, and I had asked them why the
 8 jail is so cold, and do you see what his answer was?
 9 **A. Yes.**
 10 Q. Do you agree with that statement?
 11 **A. No.**
 12 Q. Do you understand why he would write that?
 13 **A. No. I don't even know who signed this.**
 14 Q. Okay.
 15 **A. Do you know who signed it?**
 16 Q. No, I have no idea. Do you know of anybody
 17 or any inmates that have ever died in the holding area
 18 while waiting for booking to take place?
 19 **A. That died in the holding area?**
 20 Q. Yeah.
 21 **A. No.**
 22 Q. There's never been a death in the booking
 23 area that you remember?
 24 **A. Not that I know about, no.**
 25 MR. BARDES: Okay. That's all the

1 questions I have. The rest of them would be more tuned
 2 to the person who actually did it.
 3 MS. MCDONALD: Roy, do you have any?
 4 MR. MAYBANK: I have no questions.
 5 MS. MCDONALD: Ms. Dyer, I have just
 6 a couple of follow-up questions.
 7 CROSS-EXAMINATION
 8 BY MS. MCDONALD:
 9 Q. The date Mr. Bardes was asking you about I
 10 think was from April 3, '06 through around April 6 when
 11 he went on into suicide watch and the infirmary. Do
 12 you recall what the air conditioning situation at the
 13 jail was like in April of 2006?
 14 **A. April of 2006, it had to be hot. We didn't**
 15 **have air then because I used to sweat a lot.**
 16 Q. What did they do to try to relieve the heat
 17 in the jail?
 18 **A. We had the portable air conditioners.**
 19 **There are like two of those, but we had to put a fan in**
 20 **front of it to actually blow the air around.**
 21 Q. Are you aware of any kind of cell or place
 22 where anyone at the jail would put difficult detainees
 23 to punish them?
 24 **A. No.**
 25 Q. Did we or did we not use a, quote-unquote,

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1 "cold cell" as a means of punishing an inmate?
2 **A. Like I said, we don't control the**
3 **temperature, so if a cell was colder than any other, it**
4 **wasn't because we made it cold, because we don't**
5 **control the thermostat.**

6 MS. MCDONALD: Okay. Those are the
7 only questions I've got.

8 MR. BARDES: Thank you so much.
9 Sorry you were the wrong person.

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11 (Whereupon, the deposition was concluded
12 at 1:11 p.m.)

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14 (Signature waived)

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1 CERTIFICATE OF REPORTER

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3 STATE OF SOUTH CAROLINA)

4 COUNTY OF CHARLESTON)

5

6 I, Douglas K. Liperote, the officer before
7 whom the foregoing deposition was taken, do hereby
8 certify that the witness whose testimony appears in the
9 foregoing deposition was duly sworn by me; that the
10 testimony of said witness was taken by me to the best
11 of my ability and thereafter reduced to typewriting
12 under my direction; that I am neither counsel for,
13 related to, nor employed by any of the parties to the
14 action in which this deposition was taken, and further
15 that I am not a relative or employee of any attorney or
16 counsel employed by the parties thereto, nor
17 financially or otherwise interested in the outcome of
18 the action.

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My commission expires August 15, 2015.

Date
Douglas K. Liperote
Notary Public in and for the
County of Charleston
State of South Carolina