No. 18-5102

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

ALEXANDER L. BAXTER,
Plaintiff / Appellee,

v.

BRAD BRACEY & SPENCER HARRIS,
Defendants / Appellants.

RESPONSE BRIEF OF THE APPELLEE

Alexander L. Baxter, pro se.
TDOC #145056
Trousdale Turner Correctional
Complex (TTCC)
140 Macon Way
Hartsville, Tennessee 37074

Corporate Disclosure Statement

Pursuant to the United States Court of Appeals, Sixth Circuit, Rule 26.1, the appellee makes the following disclosures:

1) No party is an affliate or subsidiary of a publicly owned corporation;

2) There is no publicly owned corporation, Not a party to the appeal, that has a financial interest in the outcome.

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Statement Regarding Oral Argument

Pursuant to Rule 34 of the Federal Rules of Appellate Procedure, the appellee does not agree that oral argument should be waived. The Court should be allowed to view the emotion and demeanor of the appellee to better understand the gravity and depth of the attack suffered by the hands of the appellants. It was sadistic, it was malicious, and it was performed like a mini execution of sorts.

However, due to the appellee's present station in life as an incarcerated prisoner, oral argument is regretefully waived. But the appellee has learned through his trial by error experience that this Court is an excellent arbitrator of the facts and is able to clearly see through all the bull. The issues and decisional process should not be dimished by the absence of the appellee.

Statement Of The Issues Presented For Review

1) Whether the Court should exercise jurisdiction over this appeal, whether the appellee has stated a constitutional violation, and whether the appellee is entitled to a trial.

2) Brad Bracey is not entitled to summary judgment based on qualified immunity, nor is Spencer Harris entitled to summary judgment based on qualified immunity.

Jurisdictional Statement

The Court has jurisdiction over this appeal pursuant to 42 U.S.C. 1983.

Statement of the Case

It is only by the Grace of God that the appellee has been granted the honor and the privilege to come, as a layman, before such distinguished and learned men to be fairly treated and fairly heard in such an unpopular case.

That is why the appellee wishes to take this unique opportunity to express his most heart-felt appreciation, not only for himself, but for the countless homeless men, women and children who, under color of their authority, are wrongfully assaulted by corrupt and dishonest police officers sworn to uphold the law. Nevertheless, thank you! Thank you for allowing this appellee to be fairly heard. This is indeed an Honorable Court...

For more than a month after inflicting the attack the appellee received daily chronic care for his injuries. Each and every day while being housed at the Metropolitan Nashville Davidson County Sheriffs office the appellee was called to medical where medical staff removed the gauze bandages, cleaned the wounds, took pictures, and uploaded

the images, before replacing the bandages with clean, fresh bandages. Daily calls to medical, daily chronic care, uploading of pictures - all done because of the so-called "scratch" or "one" small puncture wound portrayed by the appellants.

The appellee first began his quest for justice when in January of 2014 he began filing and exhausting all of his administrative remedies. Additional administrative complaints were filed with the MNPD Office of Professional Accountability, MNPD Sgt. Chris Warner, Lt. Christopher Gilder, Captain Dhana Jones, MNPD Chief Steve Anderson, and finally, Mayor of Nashville at the time, Karl Dean; all to no avail. The complaint along with their responses are reflected in the record.

The original complaint was filed on January 7, 2015, and on March 6, 2015, in Document No. 61, the appellants filed their Answer. Since the filing of their Answer the appellants have thrown virtually everything they could at appellee, no matter how meritless the claim.

They've asserted the defense of res judicata, statute of limitations, laches, and estoppel. They've requested costs and attorney fees, even though the appellee did not sue Metro and even though the appellants have not had to spend one dime in their own defense. They further claim that they've acted in good faith at all times.

After the case was eventually decided by the Sixth Circuit then sent back to the district court, the appellee attempted to obtain discovery for a second time. The first was stopped in its track by the appellants Motion to Stay Discovery. Counsel for the appellants, however, sent appellee a discovery request instead.

Included in that request was a form authorizing disclosure of the appellee's medical information to anybody, to anywhere, and at any time, which the apellee thought was overly broad and beyond the scope necessary for the case. Also included in that request were requests so cumulative, so burdensome, so harassing, so annoying, so expensive, so irrelevant, so oppressive, so embarrasing, and simply an extention of the

dilatory tactics employed by the appellants that the appellee found it impossible for a pro se, incarcerated litigant to answer it all.

But in a good faith attempt, on October 25, 2016, the appellee drafted and forwarded to appellants a modified version of a medical release. The modified version specifically authorized disclosure to counsel. But the attorneys for the appellants, Roberge and Oliver, were not satisfied, and they requested again to sign and forward to them their own generic version which appellant did.

Thereafter, on January 16, 2017, the appellant made another attempt at discovery. The appellants answered by sending an envelope containing 268 pages of materials. Out of the 268 pages, 247 pages were documents from Harris' dog training file; none of which appellee requested, and all of which was completely irrelevant. Nowhere in the complaint, nor anywhere in discovery, did appellee ask for or question Harris' dog training file.

What are the appellants hiding? Disclosure of the appellants' civilians complaints and disclosure of the electronic stored images is not that complicated, yet

3 years have now passed since the requests were first made but the appellants still refuse to disclose the information, even with a court order. . . .

Bracey is a liar and the truth is not in him. Bracey has been lying from the start, and he is still lying right today. Harris is much worse. One of the appellee's most impassioned fears is that the appellants will somehow be allowed to get away with the crime they committed. But common sense should dictate that if it happened in the past, if they are allowed to get away, it'll certainly happen again sometime in the future.

Another closing concern is the appellants' total lack of human compassion. They keep constantly trying to claim that all the appellee received was a minor wound. But from the start, when the bandages were first being changed, when the appellee raised his arm he could see deep inside the open cavity of his body. The "minor wound" was that serious. The appellant is eager to explain all of this information to a federal jury.

The appellee's motion for summary judgment is another concern. In their Brief before this Court, located on p. 11, Document No. 11, the appellants

state the following: "... It is undisputed that Officer Harris did not say anything before releasing Duo, Officer Bracey was located behind Baxter..." so forth and so on.

But located in the district court, in the Sworn Declaration of Officer Bracey, Document No. 81-1, p. 2, Bracey makes oath to the following: "... 10. After giving additional warnings, Officer Harris and K9 Duo entered first and then Officer Harris. While Officer Harris and K9 Duo entered the basement I stayed outside the basement window..."

Bracey further made oath, under penalty of perjury, to the following: "... After hearing Officer Harris state that Plaintiff had surrended I entered the basement..." 3:15-cv-00019, Document No. 81-1, p. 2. Have they forgotten that this is one case, not two?

The appellee is at a complete loss how the appellants are being allowed to commit multiple acts of perjury, not only before the district court, but before this Honorable Court as well. When denying the appellee's motion for summary judgment, the district court relied heavily on the submissions entered by the appellants: "... Bracey averred that he was not even in the basement when the alleged attack occurred.

Therefore, under Rule 56, there remains genuine issue of material fact..." Document No. 82, p. 3. "... Accordingly, the plaintiff's motion for summary judgment is denied..." The district court failed to rule on the appellee's second motion for summary judgment, Document No. 102, p. 8, filed after they submitted the truth...

The appellee was sitting on the ground, frozen still, with his hands raised in the air. Bracey has finally admitted that. The appellee was passively complying with the officers' commands, and the appellee did nothing whatsoever to provoke any force. That is now a proven fact.

At least 6 to 8 windows surround the bottom of the house. That is also a fact. It was daylight outside, none were covered, and lots of light was shining through the windows. That is also a fact.

Police reports reveal the officers knew exactly where in the basement the appellee sat in the basement even before appellants entered the basement. That is how the appellants were able to come straight to the appellee, while the dog, on the other hand, followed the path the appellee had taken when he entered the basement, running at first to the opposite side of the basement. These are now undisputed facts.

After Roberge came to the prison and completed the deposition, Harris suddenly decided he couldn't see the appellee's hands. How convenient. This has now been pleaded into the record despite the fact that Bracey clearly saw the appellee's hands, and despite the fact that in their Brief, located on p. 13, Document No. 11, the following statement was made: "... I. Officer Harris was entitled to view Baxter's position wit his hands up ..."

The fabrication and lies the appellee has found are too numerous to list in one pleading. The appellee can hardly wait to tell them to a jury. In the meantime, the appellants attempt to make a big fuss, falsely claiming that only a few seconds elapsed before they released the dog. But what they have conveniently forgotten to include are the 15 or 20 or so seconds that elapsed while the appellee sat surrendered with his hands in the air before the dog ever rejoined Harris.

Genuine issue of material facts remain. Harris used excessive force, and Bracey failed to intervene.

Summary

Arguments Of The Appellee

Pending before the Court is an interlocutory appeal, the second one in this case, from a 42 U.S.C. 1983 Civil Rights Complaint filed by Alexander L. Baxter, an inmate presently incarcerated at the Trousdale Turner Correctional Complex located in Hartsville, Tennessee.

The appellee, acting pro se, filed this action against Officers Spencer Harris and Brad Bracey, respectively, for the use of excessive force and failing to intervene, which violated the appellee's constitutional rights. In addition, the appellee invoked the court's supplemental jurisdiction under Title 28, U.S.C., §1367, for the criminal offense of assault and/or aggravated assault.

The plaintiff/appellee seeks relief in the form of compensatory damages, punitive damages and special damages. The appellee has suffered serious bodily injury, permanent scars, back injury, flashbacks, mental anguish, emotional distress, personal humiliation, and a mysterious illness that has entered the appellee's body since the attack. The appellee is in need of long-term treatment, and seeks accountability for his state-law claims.

To the best of the appellee's understanding, both Harris and Bracey filed a joint motion for summary judgment. Harris sought to have the case dismissed because "... Officer Harris' actions did not constitute excessive force and no clearly established law holds that it does;..." Document No. 99, p. 2. Bracey sought to have the case dismissed because "... he lacked any meaningful opportunity to intervene..." Document No. 99, p. 2. Both claimed qualified immunity.

But the appellee submits that the appellants are not entitled to summary judgment based on qualified immunity because there are genuine issues of disputed facts that merit a trial. Summary judgment based on qualified immunity would have been also improper because the appellants refused to comply with the appellee discovery requests and the appellee did not complete discovery, their claim of summary judgment based on qualified immunity is barred by the doctrines of res judicata and/or collateral estoppel, and both Harris and Bracey have committed multiple acts of perjury before the district court and before the Sixth Circuit Court of Appeals.

Argument

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No stat shall make or enforce any law which shall abridge the privileges and immunities of any citizens of the United States, nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." United States Constitution, Amendment XIV, Section 1.

In addition, 42 U.S.C. 1983, provides as follows: "Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia, subjects, or cause to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action of law, suit or equity, or other proper

proceeding for redress."

Moreover, summary judgment is to be granted only if the record before the court shows "that there is no issue as to any material fact and that the moving party is entitled to judgment as a matter of law."

From what the appellee has read, the Fourth Amendment protects persons from the use of excessive force by law enforcement officers in the course of an arrest, investigory detention or other seizure. Moreover, police use of force is always analzed under the Fourth Amendment "reasonableness" standard which governs "all claims that law enforcement have used excessive force in the cours of an arrest." Graham v. Conner, 109 S. Ct. 1865.

In addition, personnel may be held liable for there failure to act if it results in a constitutional violation. Estelle v. Gamble, 97 S.Ct. 285; Alexander v. Perrill, 916 F.2d 1392, (officials "can't just sat on your duff and not do anything" to prevent violations of

Rights); Lewis v. Mitchell, 416 F. Supp. 2nd 935, 945 (a person may be held liable under §1983 if he "omits to perform an act which he is legally required to do that causes the deprivation of which plaintiff complains)," quoting Johnson v. Duffy, 588 F. 2d 740, 743.

Under the fourth Amendment, a plaintiff need not show malicious intent because the officers' state of mind is not important. The question is "whether the officers action are 'objectively reasonable" in the light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." Graham v. Conner, 490 U.S. 397.

In addition to the above, a court should not grant summary judgment against a party whose discovery requests have not been answered. Ingle v. Yelton, 439 F. 3d 191, 194. "Where the facts are in possession of the moving party, a continuous of a motion for summary judgment should be granted as a matter of course." Castlow v. U.S. 552 F. 2d 560.

The appellee sat on the ground, frozen still, with his hands raised high in the air. Harris stood in front of the appellee, while Bracey stood behind. With both hands and both arms raised high in the air, the appellee was looking at both officers looking at him. The appellee was at gunpoint, and the appellee had completely surrendered. All either officer had to do was put handcuffs on the appellee.

But with the appellee sitting passively on the ground during this 15 or 20 seconds the appellants waited until the dog rejoined them. As the appellee sat there terrified with the dog rearing up violently, another five or ten or perhaps more seconds passed then Harris let the dog go.

All the dog had to do was lunge and it was on the appellee. It latched on to the appellee's underarm and for a long time it wouldn't let go. It was the tender part of the underarm and it was extremely painful. It only let go long enough (split seconds) to catch its breath

and get a better grip. It was shaking its head viciously back and forth.

The appellants totally ignored the screams and pleas to stop coming from the appellee. The attack lasted for at least 30 seconds or more as both officers stood and watched. The puncture wound the appellee sustained was close to his heart...

On March 27, 1985, the United States decided the case of TENNESSEE V. GARNER, 471 U.S. 1, 105 S.Ct. 1694. In that case a father, whose unarmed son was shot by a police officer as son was fleeing from the burglary of a house, brought action under 42 U.S.C. 1983 against police officer, the department, and others.

The United States District Court for the Western District of TENNESSEE, after remand, rendered judgment for the defendants, and father appealed. The Sixth Circuit, however, reversed and remanded. Certiorari was granted.

In the U.S. Supreme Court, Justice White held that: (1) apprehension by deadly force is a seizure subject to the Fourth Amendment's reasonableness requirement; (2) deadly force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect posed a significant threat of death or serious physical injury to the officer or others; (3) Tennessee statute under of which police officer fired fatal shot was, unconstitutional insofar as it authorized deadly force against an apparently unarmed, non-dangerous fleeing suspect; and (4) the fact that unarmed suspect had broken into dwelling did not mean that he was dangerous.

As was the case of Garner, the appellee was an unarmed, non-dangerous suspect, and "... nothing in Garner limits its application solely to force of a deadly nather; Rather, the principles enunciated therein logically extend to any seizure excessive in terms of the degree of force used..." Garner vs. Conner, 1988 WL 1025786, p. 6, para. 8. The analysis, however, doesn't end there.

On October 6, 1986, the United States Court of Appeals for the Sixth Circuit, the Honorable J. Gilmore sitting by designation, decided the case of Carter v. City of Chattanooga, 803 F.2d 217. In that case, the mother of a man shot by police officer during an attempt to escape from the scene of a daytime burglary brought action claiming her son's Fourth Amendment rights had been violated.

The United States District Court for the Eastern District of Tennessee entered judgment for the city and the plaintiff appealed. The Court of Appeals held that evidence established that police officer shot suspect because police officer caught suspect in burglary, so that the use of deadly force to stop suspect violated Fourth Amendment.

But during the trial in this matter, the verdict of the jury was wrongfully for the city, and the appellant thusly raised three issues on appeal. She first contended that the trial court should have granted a motion for summary judgment on the issue of liability, allowing the jury to decide only the issue of damages. She next contended that the district court erred in denying her motion for judgment not withstanding the verdict based on the evidence put before the jury. And she finally contended that she should be granted a new trial on the basis that the jury's verdict was against the weight of the evidence. The

defendant cross-appealed on the issue of retro-activity regarding Garner, but the plaintiff in this case ultimately prevailed.

As the court reasoned, "where a suspect poses no immediate threat to the officers and no threat to others, the harm resulting from failing to apprehend him does not justify the use of deadly force to do so." "A police officer may not seize an unarmed, non-dangerous suspect by shooting him dead." Garner, Id.

The books are swamped with cases of police brutality and use of excessive force. There exists so many examples of the unconstitutional use of excessive force by police officers that they are too numerous to list in one volume of books let alone trying to list in this one pleading. But it happens, as it did in this case, and when it is brought to light of course the police will try to cover it up...

The next inquiry is whether the right to protection against the use of excessive force was clearly established at the time. "To determine whether a constitutional right was clearly established we must look first to decisions of the Supreme Court, then to the Sixth Circuit Court of Appeals, and finally to decisions in other circuits." Braun v. Lewis, 779 F.3d 401,

418-19 (6th Cir. 2015). A right is "clearly established" if its contours are "sufficiently clear that a reasonable officer would understand that what he is doing violates that right." Harris v. City of Circleville, 583 F.3d 356, 366-67 (6th Cir. 2009).

The right to be free from the excessive use of force in the context of police canine units was clearly established by 2012, when in Campbell the Court held that officers who used an inadequately trained canine, without warning, to apprehend two suspects who were not fleeing, acted contrary to clearly established law. Campbell, 700 F.3d at 789. The right to intervention to prevent the use of excessive force was also established. See: Turner, 119 F.3d at 429.

A final issue the appellee raises is this piecemeal litigation, or what the appellee believes is an abuse of the interlocutory process. What if there were 10 defendants? Would the appellants be allowed to have 10 separate appeals? If not, then the same principle should apply to this second interlocutory appeal.

To the best of the appellee's understanding, res judicata generally means you cannot bring a claim if there has already been a judgment on the merits of the same action by a court of competent jurisdiction. The U.S. District Court for the Middle District of Tennessee, as well as this

Court are Courts of competent jurisdiction.

Collateral estoppel is the principle that a party cannot relitigate particular factual or legal issues which were litigated or decided in a prior decision. In other words, collateral estoppel serves to bar relitigating factual or legal issues that arose from the same occurrence. The appellee submits that summary judgment under the claim of qualified immunity is barred by the doctrines of res judicata and/or collateral estoppel.

The point the appellee wishes to aver is that the doctrines of res judicata and/or collateral estoppel bars relief for the appellants because there has already been a judgment on the merits of the same action by a court of competent jurisdiction. In addition, neither Harris nor Bracey should be allowed to relitigate the same factual or legal issues which have already been decided in a prior decision.

When the motion to dismiss was filed on January 24, 2015, Bracey asserted his right to do so. Harris chose, instead, not to do so. Harris' decision not to pursue qualified immunity or that he did not violate clearly established right of the appellee was a tactical decision, and the doctrines of res judicata and/or collateral estoppel now bars relitigating the same issues again.

Additionally, when Bracey filed his motion to dismiss he raised the same exact factual and legal issues that were previously rejected by the district court as well as by the Sixth Circuit Court of Appeals. Thusly, the doctrines of res judicata and/or collateral estoppel bar relief because there has already been a judgment on the merits of the same action by not one, but two Courts of competent jurisdiction. . .

In concluding, the appellee would like to bring the Court's attention to the holdings enunciated in Smith v. Kim, 70 Fed. Appx. 818:

"The Court has established that summary judgment is inappropriate where there are contentious factual disputes over the reasonableness over the use of . . . force."

"Where, as here, the legal question of qualified immunity turns upon which version of the facts one accepts, the jury, not the judge, must determine liability."

The appellee understands that summary judgment based on qualified immunity is immediately appealable, but the germane facts are in dispute, as evidenced by the testimony of the appellee compared to the pleadings contained in the Record. To find the facts undisputed is to credit all inferences in the light most favorable to the appellants.

Conclusion

Perhaps the appellee does not posses the eloquence or the proper communication skill to express himself coherently enough before the Court, or perhaps counsel for the appellants has managed to paint such a twisted version that she has managed to distort the actual truth, but the appellee would like the Court to know that this was not a K9 apprehension. In the cover of the basement, the dog was used to commit a crime.

Harris stood directly in front of the appellee, while Bracey stood behind; while they both waited on the dog to rejoin them. Harris could see the appellee clearly. That is why the appellants were able to come straight, directly to the appellee when they jumped into the basement. The appellee was praying at the time.

The appellee had on multiple layers of clothing, including 2 or 3 t-shirts, several shirts, and 3 or 4 thick sweaters, and a Predators jersey. That's because it was freezing cold outside. The temperature was at or below freezing. The temperature that night had plunged to near zero, or rather the night before the attack.

When Harris finally stepped in and removed the dog, the appellee caught a quick glimpse. The dog's teeth, its gums and its snout was thick with the appellee's blood, even through the thick clothing.

After the attack there were no bites on the appellee's legs or arms or anywhere else on the appellee's body. The only bites the appellee received was under the pit of his arm. That's because the appellee had his arms high in the air when Harris released the dog. He gave no prior warning beforehand.

When the attack was finished Bracey did not step in and place the cuffs on the appellee. The appellee was so traumatized that they had to carry the appellee over to the window where they pushed him through to the arms of waiting officers. The handcuffs were placed on the appellee while the appellee was on the ground outside. There was snow and ice on the ground. Later, both appellants filed a false police report.

For over 4 years now the appellee has sought justice fighting this case. It has been extremely difficult because the appellee has been housed at the Trousdale prison, where he has had to undergo more than a dozen lockdowns. As of the filing

of this appeal, the facility has been on lockdown for 12 straight days. While on lockdown the appellee has been confined to his bunk. The appellee has not had access to the library.

The appellee is a homeless man - a felon convicted of crime. But throughout the course of these entire proceedings the appellee has been forthright and honest. Harris and Bracey on the other hand are commissioned police officers, sworn to uphold the law. But throughout the course of these proceedings they have lied continuously. They are dishonest and corrupt.

Bracey is not entitled to summary judgment based on qualified immunity, nor is Harris entitled to summary judgment based on qualified immunity. Genuine issues of disputed facts remain.

The appellants will continue to lie as long as they are given a platform to do so. If they were truly honest and decent men, they would tell the truth and move on.

That is why the appellee moves the Court to reject there fabrications. The appellee moves the Court to allow a trial as the Honorable Rosenberg has so ordered.

Respectfully submitted,

Mr. Alexander L. Baxter, pro se.

* Special Notice

The appellee asks the Court to forgive his sometimes sloppy handwriting.

Certificate of Service

I, Alexander L. Baxter, do hereby certify that a true and exact copy of the foregoing has been placed in the prison mailbox, with United States Postage attached, and forwarded to:

Melissa Roberge & Keli Oliver,
Assistant Metropolitan Attorneys
108 Metropolitan Courthouse
P.O. Box 196300
Nashville, Tennessee 37219-6300

Blessed are they which do hunger and thirst after righteousness, for they shall be filled... Matthew 5:6

Harris Stood Here

Bracey Stood Here

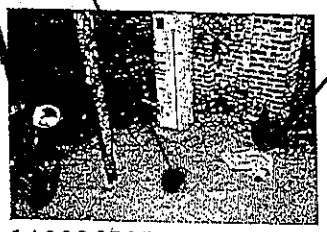
Police Central Evidence Process - Contact Sheet

Officer:	839056:	Case Report #:
CHRISTINE OLSON	839056	140026705

Date: 01/10/2014 Time: 07:18 File(s) path: I:\Crime2014\Wpatrol\1400267

Appellee Sat Here

- Window up Here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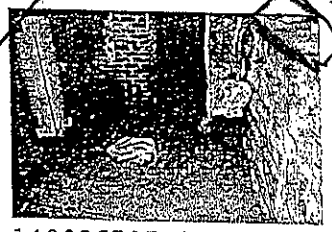
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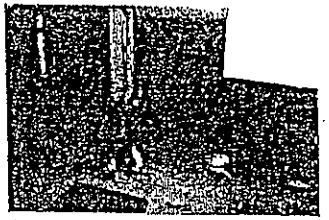
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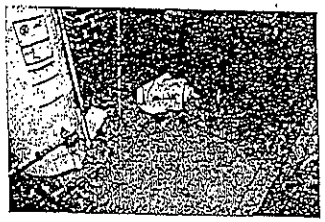
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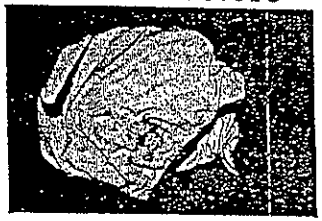
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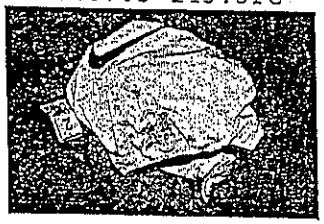
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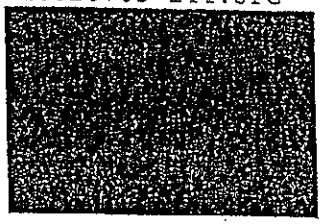
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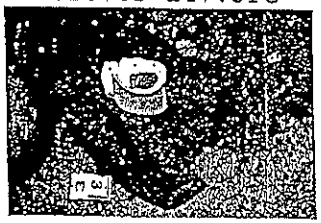
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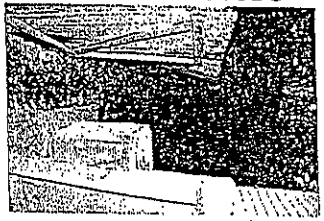
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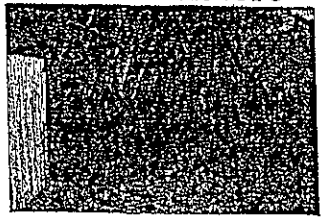
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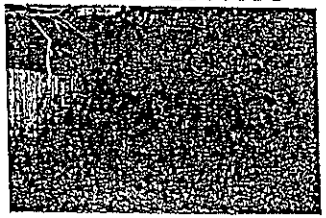
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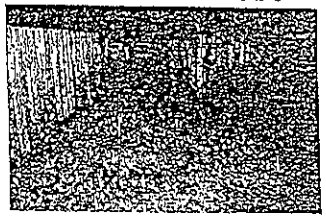
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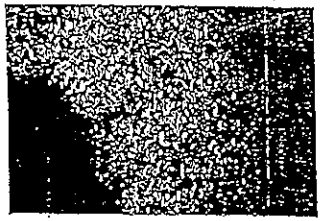
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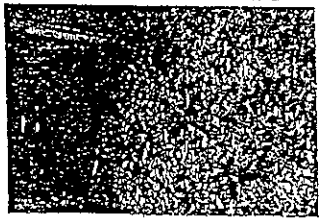
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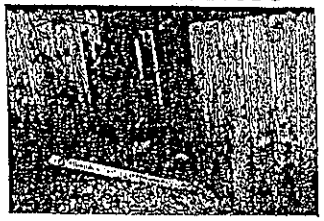
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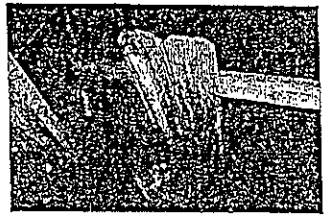
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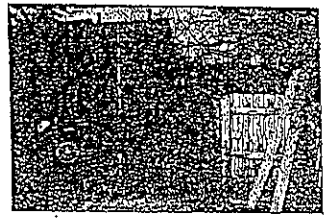
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Sign Here _____

*This picture was taken 2 days later.

140 Macon Way
Hartsville, TN 37074

United States Court of Appeals
100 East fifth Street, Room 540
Potter Stewart Courthouse
Cincinnati, Ohio
45202-3988

18-5102

of this appeal, the facility has been on lockdown for 12 straight days. While on lockdown the appellee has been confined to his bunk. The appellee has not had access to the library.

The appellee is a homeless man - a felon convicted of crime. But throughout the course of these entire proceedings the appellee has been forthright and honest. Harris and Bracey on the other hand are commissioned police officers, sworn to uphold the law. But throughout the course of these proceedings they have lied continuously. They are dishonest and corrupt.

Bracey is not entitled to summary judgment based on qualified immunity, nor is Harris entitled to summary judgment based on qualified immunity. Genuine issues of disputed facts remain.

The appellants will continue to lie as long as they are given a platform to do so. If they were truly honest and decent men, they would tell the truth and move on.

That is why the appellee moves the Court to reject there fabrications. The appellee moves the Court to allow a trial as the Honorable Rosenberg has so Ordered.

Respectfully submitted,

Mr. Alexander L. Baxter, pro se.