

WITNESS STATEMENT

TM - Sgt. Tim Morgan BG – Lt Bobby Goggin PW – Dep. Carl Willard

BG Ok the recorder is on. This is an administrative oath perjury warning, case number being 11-01. The witness name is Dep. Carl Willard. Dep. Willard for the record please spell your last name.

CW W-I-L-L-A-R-D

BG I am Lt. Robert Goggin with the Volusia County Sheriff's Office Internal Affairs unit. Today's date is January 27, 2011, the current time is 2pm. The location of this interview is the Volusia County Administration building located in Deland, Florida. Also present during this interview is Sgt. Tim Morgan. Dep. Willard, are you aware this interview is being recorded?

CW Yes I am.

BG I am conducting an official administrative investigation concerning alleged violations of Sheriff's Office policies being 26.2.129 Misdemeanors Injurious to the Department, 26.2.118 Code of Ethics for Public Officers or Employees, 26.2.34 Failure to Follow Directives or Orders as it pertains to subsection 70.1.72 Prisoner transported along shall be secured with handcuffs in front for transport within Volusia County and subsection 1.8.19 also 41.13.20 and also Volusia County Merit System Rules and Regulations. As a Florida law enforcement officer and a Notary Public of the State of Florida I am empowered to take sworn statements. At this time Dep. Willard I ask that you raise your right hand to be sworn please. Do you solemnly swear that the statement you are about to give is the truth and nothing but the truth?

CW Yes I do.

BG Any false statements about material matters given by a witness under oath will constitute perjury which is a third degree felony according to section 837.02 of Florida Statutes. Do you understand that if you knowingly make material misstatements of facts to me during this investigation you will have committed the crime of perjury?

CW Yes.

BG Dep. Willard I need your signature at the bottom corner there please. Dep. Willard prior to going on record today you were provided with a packet of paperwork to include arrest affidavits, law enforcement officer reports by the Volusia County Sheriff's Office and employees of the Volusia County Branch Jail. You were provided with CAD print outs, a, fuel logs and other materials

related to this investigation. Were you provided time to review that material prior to coming into the office?

CW Yes I was.

BG Dep. Willard you were also provided with a form, your advisement of rights as it pertains to garrity, that form that you read and signed a few moments ago. Did you have time to review that form prior to signing it?

CW Yes I did.

BG Do you have any questions regarding that form?

CW No.

BG Dep. Willard when you were served your notice of internal affairs investigation I gave you a copy of your law enforcement officer bill of rights. Did you receive that packet?

CW Yes I did.

BG There's another copy here in front of you this afternoon. Do you need time to review that information?

CW No I don't.

BG Ok and Dep. Willard also today you've come to this interview today without representation or an attorney or anyone with you, was that by your own choice?

CW Yes.

BG Ok. Dep. Willard we're going to discuss an incident that occurred on January 19th of this year and a complaint that was filed by Ms. Lisa Lopez after she was arrested in district four the Deltona area. Prior, before we do that, were you working on January 19th of this year?

CW Yes.

BG In what capacity?

CW As a prisoner transport deputy.

BG What are your normal job responsibilities?

CW Prisoner transport.

BG How long have you done that job as prisoner transport?

CW Since I believe January of 77, I mean 2007.

BG Prior to January 2007 were you employed by the Volusia County Sheriff's Office?

CW Yes.

BG And how long were you employed by the Volusia County Sheriff's Office?

CW From November the 17th, 1975 to I believe December the 31st, 2005. Approximately 30 years.

BG Ok thank you. Dep. Willard after looking at the paperwork that you were provided, when did you first come in contact with the complainant Ms. Lisa Lopez?

CW When the deputy dropped her off to me at the fairgrounds.

BG Were you dispatched to that location?

CW Yes I was.

BG When you met with the deputy, do you know who that deputy is?

CW No I don't.

BG Ok and if I tell you it's Dep. Gaeta would that ring a bell to you?

CW No.

BG Ok. The deputy that made the arrest which is indicated in the report is Dep. Gaeta and you met him at the Volusia County Fairgrounds?

CW Yes.

BG And can you describe where at the fairgrounds that you met the deputy?

CW At the parking lot right in front of the first gate going into the fairgrounds.

BG Ok and that would have been on, it would have been the last Wednesday is that correct?

CW Yes.

BG The 5th, I'm sorry it would have been the 19th?

CW Yes, I believe.

BG Wednesday the 19th, ok and that's what's indicated in the reports. Can you describe the surroundings, was there anything going on that day at the fairgrounds?

CW They were having a flea market.

BG And that's the normal Wednesday flea market farmers market out there?

CW Yes.

BG Was it a busy congested area?

CW Yes.

BG Ok. Go ahead and explain to me when deputy, who was there first at the fairgrounds? Yourself or Dep. Gaeta?

CW I believe, I am not positive. I believe that I was there first.

BG Ok and what happened after that? Talk me thru what happened.

CW The deputy got there, he had the prisoner. Um, he gave me the prisoner and her paperwork, we moved her from her car, from his car to my car. I gave him a pair of handcuffs and that was the extent.

BG When she was placed into your car, passenger side of driver's side?

CW I believe driver's side.

BG Did you search the defendant prior to taking custody of her?

CW No I did not.

BG By stating that Dep. Willard can you explain to me why you failed to follow policy on searching a prisoner when they come into your contact?

CW No.

BG Do you recall asking the deputy, Dep. Gaeta if he had searched the defendant?

CW I did not ask him that I can recall.

BG Any other action with Dep. Gaeta at the fairgrounds?

CW No.

BG After taking custody of the defendant what actions did you take?

CW I drove across, I drove across the street to the gas pumps.

BG Ok did you make central communications, our dispatch center aware that you were, of the location change from the fairgrounds to the gas pumps?

CW No I did not.

BG Can you explain to me today why you failed to do so?

CW Because I didn't think it was necessary. I was just going from the parking lot to the gas pumps.

BG During the transport of the defendant from the fairgrounds to the gas pump can you describe to me any conversation between yourself and the defendant?

CW The only conversation that we had was that as I was pulling out onto 44 she stated to me, these cuffs are hurting me.

BG Ok. And the traffic can you describe to me the traffic situation there crossing 44?

CW Relatively heavy with a lot of people making left turns into the fairground.

BG Ok. When you left the fairgrounds and separated from Dep. Gaeta at any time did you have conversation with him that you were going to go get gas?

CW No.

BG What was your fuel status at the time? Were you on empty when you obtained fuel?

CW No I wasn't, I was, my gas tank was between half and one quarter of a tank.

BG So at that time you didn't need fuel?

CW I wasn't in danger of running out of fuel.

BG Do you know how much fuel you obtained at those gas pumps?

CW From reading this I think it was less than 10 gallons I'm not sure, I think from reading this right at 10 gallons.

BG Right, the documentation shows 9.7 does that sound familiar to you?

CW Yes.

BG Ok and you would agree with that amount?

CW Yes.

BG Did you top off with fuel at that time?

CW Yes.

BG Ok. Did you operate the same PT vehicle Dep. Willard that day or did you switch vehicles in the afternoon?

CW No I had the same vehicle all day.

BG Can you estimate for me today the distance between the pumps that are at I-4 and 44 to the county jail?

CW I would guess about 15 miles.

BG Did you have enough fuel after taking possession of the female inmate to drive to the county jail?

CW Yes.

BG Can you explain to me today why you did not wait to obtain fuel after dropping the inmate off at the jail?

CW Because I was right there, I normally gas my car once a day I was right across the street from the pumps. I travel probably between on average between 100 and 300 miles a day. I was right there I knew that I was below half a tank of gas. Normally when it gets below a half a tank of gas then I top it off.

BG Was there any reason you could not have waited to obtain fuel at the gas pumps that are located by the county jail?

CW No.

BG And again I think you've already, you've already mentioned this Dep. Willard, did you at any time notify central of stopping at the fuel pumps with a prisoner and give your location?

CW No I did not.

BG And again can you explain to me why you failed to do so?

CW I didn't, I didn't, I had not called them and said I was enroute with the 10-15, as soon as I got gas then I said "central..." I believe I said "I will be enroute to the jail"

BG So when you came up on the radio and I think the CAD shows it, when you accepted the female inmate is that when you came up on the radio and gave your, the time or the location and mileage?

CW No I think it was, I think it was after I had fueled.

BG Ok. And Dep. Willard in your time frame as a PT officer how many times have you made stops for fuel while transporting a female prisoner or any prisoner?

CW Very rarely if ever.

BG The, the decision to make that stop and obtain fuel and not give a location, is that accepted or instructed practice in prisoner transport?

CW It's not an accepted or expected practice it was I was there, it was convenient and I was stopping to get fuel.

BG Have you ever been told by a supervisor in your chain of command that it's ok to do so?

CW No. I have not also been, no I have not.

BG Did you follow sheriff's office policy as providing a location, starting mileage and ending mileage once accepting that prisoner?

CW Not from the, when I moved from the parking lot to the fuel pump.

BG Any conversation with the defendant while both yourself and Dep. Gaeta were pumping gas?

CW With the...

BG While you were at the gas pumps and I want to...

CW There, there was no conversation between me and the prisoner there was conversation between me and the deputy.

BG Ok. And when you got to the gas pumps where was Dep. Gaeta? Was he already, did he arrive at the gas pumps before you or after you?

CW Yes as I pulled up onto 44 he was coming back westbound on 44. I didn't know that that was him but there was a sheriff's car coming and turning into the gas pumps. When I was sitting in the median was when she told me that her cuffs were hurting her.

BG Ok and do you recall, can you specifically recall who actually pulled into the pumps first yourself or Dep. Gaeta?

CW The patrol car turned into the pumps. I was held up in traffic additionally. After a few seconds maybe 30, 45 seconds maybe a little more I'm not exactly positive traffic cleared and I pulled across.

BG Ok so he was there, the deputy was there prior to...

CW So I got, when I got to the gas pumps he was already at the pumps and had already completed entering his information into the gas pump.

BG Ok. And at that time you were having no conversation with the inmate or the prisoner?

CW I had not. The only conversation that I had had was that she'd told me that the, that her handcuffs were hurting her.

BG And after she told you that what actions did you take?

CW None at that moment.

BG Ok, while you were at the gas pumps did you at any time remove the inmate or the prisoner from the back seat of your patrol car?

CW While I was at the gas pumps?

BG Yeah.

CW Yes.

BG Ok was Dep. Gaeta still present?

CW No.

BG Can you describe the area of the gas pumps to me?

CW On the, in between the main gas tank and the first set of pumps.

BG Ok. Can it be seen by passing motorists?

CW No I don't think so.

BG And we've already established that Dep. Gaeta was not present. Was there anybody else present at the pumps when you removed the inmate or prisoner from the back seat?

CW No.

BG And when I say that, other civilians pumping gas with their cars? Road crews, anybody that might have been doing maintenance or anything there?

CW No.

BG Can you give me an estimate of time after Dep. Gaeta left there that you removed her from the car?

CW Less than 30 seconds. He had pulled off, I had finished, he had just pulled off I had finished pumping my gas, hung the gas pumps hung the gas thing up, opened the door and asked her "are your cuffs hurting you?" she said "yes" that's when I got her out. As, when I got her out of the car he had not been gone, if he had even if he had even had time to fully leave, it was seconds.

BG So after she gets out of the car explain to me what happens.

CW I ask her to turn around, I took her handcuffs off, I'm getting ahead of myself. When I asked her to get out of the car I asked her "have you been patted down?" she said to me "no I have not" then I took the handcuffs off of her and I said "when I take the cuff off I want you to put each hand on top of the car" so I removed the cuff from one side, she put her hand up on top of the car, I removed the cuff from the other side, she put her other hand up on top of the car.

BG What happened after that?

CW After that I patted her down.

BG Dep. Willard with an understanding of our policy regarding pat down or searches of female inmates which reads and it's in front of you, you have it there, that a female deputy should do so and if not a second deputy if possible should witness the pat down. At any time did you request, once you realized that she informed you that she had not been patted down did you ever request Dep. Gaeta to return to the gas pumps to witness the pat down?

CW No I did not.

BG Did you request any deputy to respond to your location for the pat down?

CW No I did not.

BG And can you explain why you did not?

CW Because my concern was she had asked, had told me that the handcuffs were hurting her. When I took the handcuffs off they were not excessively tight however she did have marks on her arms from the handcuffs where she had been leaning against them in the back of the car. When I took the handcuffs off of her and asked her if she had been patted down she said no. My, all that I wanted to do was to get the job done as quickly as I could.

BG Ok I understand. Dep. Willard you had the opportunity to search the defendant in a very public place which you described as the fairgrounds during a farmers marking during a very busy area while the arresting deputy was present and you did not by your own statement. You had a second opportunity to search the defendant at the gas pumps again while second deputy was present as a witness and again you stated to me that you did not. By your testimony the female was not searched until you were alone with her at those gas pumps and again looking at that, those facts can you explain to me why you waited till that situation dissolved itself that you were alone with the female.

CW When I got to the gas pumps I got out and I gassed my car. As soon as I was finished gassing my car then I was right there by the back door, I opened the door and said "are your cuffs still hurting you?" she said "yes". If she had not made the initial complaint to me when we were pulling in there I would not have asked her if the cuffs were hurting her and would not have conducted a search.

BG When you describe her wrists as showing some I guess indentations of the cuffs did she request medical response for that?

CW No.

BG Did you think she needed medical response?

CW No.

BG Dep. Willard in your career in the Volusia County Sheriff's Department I assume you've been involved with hundreds of arrest and pat downs with female inmates or prisoners is that correct?

CW Yes.

BG Can you explain to me how, just for the record today when you're talking about searching her how did you search her?

CW When I got her out of the car I asked her to put both hands on top of the car. She was, I was standing behind her, her hair was down below her collar. I took my index finger and I moved her hair to over her shoulder. I took my two hands like this with my two index fingers starting at the center of her rib cage and ran them along the bottom of her bra strap to just under, just to the edge of her arms. Then after I did that I took both hands and on her front pockets ran them down the side of her pockets on the outside of her leg. Then I took both hands and starting at the center of her back took my hands and ran them along the bottom of her shirt, top of her waist band, from there to the outside.

BG Do you recall if you used the inside of your hands or the outside of your hands?

CW I used the, on her back?

BG Yes.

CW On her back I used, I did just like this. On her, on her thighs...

BG Just let me interject real quick Dep. Willard. For the person that has to type this when you're saying like this you're going to have to explain that.

CW Using the back of my hands on, when I patted down her pockets I used the palm of my hand and ran the flat of my hand down the outside of her thigh where her pockets were.

BG Do you recall if she had pants with pockets?

CW She had front pockets.

BG Is this the first time in your career that you used that type of search on a female?

CW No.

BG Something you've used over the course of your career?

CW Yes.

BG Your physical search of the female inmate, prisoner is that an instructed taught procedure by the Volusia County Sheriff's Office?

CW I have, no, I have never been instructed, I have watched other people do similar to that and have done the same thing.

BG At any time during your annual deputy refresher training your three days worth of training when they've gone over handcuffing techniques were you shown a

method where handcuffs are placed on the defendant to secure them prior to a pat down?

CW No.

BG Have you had annual deputy refresher training yearly since you've been returned as a PT?

CW Yes.

BG During your pat down of the defendant did you locate any items on the defendant?

CW No.

BG After your search was the defendant re handcuffed?

CW Yes in front.

BG The decision to base the female and to handcuff her in the front, what was that decision based on? The factors?

CW She expressed to me that the handcuffs were hurting her. The only reason that I moved the handcuffs around in front of her was because they were hurting her and she was not violent or posed, didn't pose a, she wasn't causing a problem.

BG The defendant was charged with battery which is a violent act on her father and having that information you thought it was safe to handcuff her in front?

CW Based on what her actions at the time yes and based on the fact that she said that she was in discomfort and that there were marks on her hands, I mean on her wrist.

BG And Dep. Willard our sheriff's office policy and I know you have a copy over there instructs us to handcuff a defendant behind their back, did you follow policy regarding handcuffing during your interaction with the defendant?

CW I did not.

BG Any conversation between when you left the pumps until you arrived at the county jail with the defendant that you can recall?

CW Quite a bit of conversation.

BG Do you recall what any of that was about?

CW She talked about what she had been arrested for, she talked about her father and how angry he always got, she talked about her son bringing home a dog that was causing a problem, she talked about her daughter dating an individual that she did not approve of, um...

BG Was it normal conversation with the defendant after your experience in transporting prisoners for the last few years?

CW Normally when I, when I transport a prisoner then I, yes I do have a conversation with them and if I can make them feel at ease then I do.

BG In your law enforcement experience with the Volusia County Sheriff's Office for 35 years approximately now with the PT time how would you describe her mental state?

CW I did not notice anything that I would call abnormal.

BG Did she make any comments to you on, during that trip about that she felt uncomfortable about the way you searched her?

CW No she did not.

BG Did she accuse you of anything in the car or ask you why you did such a thing?

CW No she did not.

BG Any of the things that she's written in her statement that you've read did she make any of that aware, make you aware of any of that prior to you leaving her at the jail?

CW No she sat in the back of my car, she discussed things openly with me, she you know we discussed her charge, um, I told her that I couldn't be positive but that normally if she went to first appearance and she could assure the judge that there would be no further acts of violence she would probably be released without having to post bond uh...

BG Ok. When you arrived at the Volusia County Branch Jail did you notify central and provide an ending mileage to the dispatchers?

CW I believe I did.

BG Can you show me where that is? Sgt. Morgan (inaudible)

TM Yeah.

CW That was, I think it says right here 865.

TM Ok that would be your starting at 0910 hours that's your unit 1PT81. The mileage is 865 and it looks like completed which would probably be your arrival at 0930 hours at the branch jail.

CW Ok and it's...

TM But there's no...

CW I don't know that I, I don't know that I said what my ending mileage was when I got to the branch jail, I don't know, apparently I said something to generate that time now whether I actually gave my ending mileage.

BG Ok and that's what I'm asking because your ending mileage is not on the CAD print out which is an indication that the mileage was not provided. Can you recall being told by dispatch that 10-33 traffic or the channel is busy?

CW No I don't. Normally when I get to the branch jail then I push the button and say "central I'm out at the branch, ending mileage such and such" I don't know that I pushed that button and said that. I believe that I gave my ending mileage but I can not be positive.

BG If you were told that the channel was being used for emergency traffic what would your procedure be?

CW To go to, either go to, if there was something major going on and it sounded like it was going to take a long time then I would go to channel, if I was on channel four go to channel two.

BG Do you recall doing that in this incident?

CW No I don't, no I don't. I don't, I just don't recall.

BG Right now Dep. Willard I don't think I have anything else. Sgt. Morgan do you have anything you want to...

TM Yeah I just want to go over a couple things with the cuffing of the female. And Dep. Willard you mentioned that she had indentions on her hands however you did state and I don't want to put words in your mouth that the cuffs were loose, correct?

CW The handcuffs were not excessively tight on her hand. What caused the marks on her hand were that when you are handcuffed behind your back and you are in the car they press against your hands.

TM Ok.

CW They press against your wrists.

TM Did you make her aware to stop leaning on her handcuffs and it wouldn't hurt?

CW No I didn't say stop leaning on your handcuffs and it won't hurt.

TM And you also mentioned to the lieutenant and again you can correct me if I'm wrong, she had advised that she was not searched?

CW That is what she told me.

TM At any time after you transported this female prisoner did you contact your supervisor or that deputy's supervisor to make them aware that a female prisoner had advised you that she was not properly searched prior to being transported?

CW No I did not.

TM Ok, may I ask why not?

CW Because I didn't feel it was significant in that I mean I, it was like I didn't say oh well now I've got to call and say you know tell somebody that she hasn't been patted down.

TM Ok. Did you attempt to contact the deputy and let him know that she told you she was not properly searched?

CW No I did not.

TM At any time with her did she ever mention to you that she was uncomfortable with you?

CW No she did not.

BG Dep. Willard prior to this date did you know the defendant?

CW No I, no.

BG Since the date of incident have you had any contact with her?

CW No I have not.

BG Ok. Dep. Willard as far as the allegations, 26.2.129 Misdemeanors Injurious to the Department do you feel you violated that policy?

CW No.

BG Did you touch Ms. Lopez in an inappropriate manner?

CW No I did not.

BG In an unprofessional manner?

CW No I did not.

BG Did you touch her in any other way besides in the performance of your duties?

CW No I did not.

BG Do you feel you violated 26.2.118 Code of Ethics for Public Officers and Employees?

CW No I do not.

BG Do you feel you violated 26.2.34 Failure to Follow Directives or Orders as it pertains to prisoner transport? Prisoners transported shall be secured with handcuffs in back for transport within Volusia County.

CW Yes I did.

BG Also as that pertains to 1.8.19, Search of female arrestee shall be done by a deputy of the same sex and when if possible an attempt shall be made to have a second deputy present as a witness.

CW Yes I did.

BG 41.13.20 In each instance involving the transport of a prisoner, victim, witness or aided citizen of the opposite sex or juvenile in a department vehicle the operator shall contact communications center dispatch and advise location, odometer mileage at start of the transport, intended destination and odometer mileage and actual location at the end of the transport. Do you feel you violated that policy?

CW I, I may have partially with an explanation that when we moved from the fairgrounds to the gas pumps it was less than a quarter of a mile, I didn't feel that it was necessary to call in and give my beginning mileage to the gas pumps from the fairground parking lot to the gas pumps. I believe when I left the gas pumps that I did call and give my beginning mileage, I can, I can not be positive but that's what I remember. When I got to the branch jail I believe I called and gave my ending mileage. Again I can't be positive but that's what I believe.

BG Ok, and Volusia County Merit System Rules and Regulations, any conduct on or off duty that reflects unfavorably on the county as an employer. Do you feel you violated that policy?

CW No I do not.

BG Is there anything that you would like to add or delete from your statement today?

CW The only thing that I would add or delete was that what I did I did because she initially complained that she was being injured. I did it to, I fully intended to move the handcuffs around in front of her but I did it to get the job done, I did not want to go into the branch jail with her having a weapon or contraband that was obvious that I had not located.

BG Understood and I'm going to go back and touch on something you just said there. Dep. Willard you said that she notified you of an injury. Was she injured or did she say she was discomfort?

CW She said "these cuffs are hurting me" she didn't say I'm bleeding or anything like that, she said "these cuffs are hurting me"

BG Ok, again I have nothing further. Sgt. Morgan?

TM Nothing.

BG Dep. Willard anything else you'd like to add or delete?

TM No.

BG Ok well thank you very much for your time. This will conclude the interview; the time now is 2:38 pm.

I, Lt. Robert Goggin, swear that the forgoing is an accurate transcription of the sworn recorded statement of Deputy Carl Willard taken by me on January 27, 2011.
(Signed)

Sworn to and subscribed before me this____
Day of _____, 2011.

Signature of Notary Public-State of Florida

(Print, type or Stamp Commissioned Name
of Notary Public)
My Commission Expires:
My Commission Number is:
Personally Known_____
Produced identification
Type of Identification Produced