

No. 20-21930-Civ-COOKE/GOODMAN

In the United States District Court
Southern District of Florida

—————
Gamaly Hollis,
Plaintiff

v.

Miami-Dade County, and Jean Dorvilier
Defendants

—————
**EXPERT WITNESS REPORT
SUBMITTED BY
CLORA ADKINS**
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Scope of Engagement

I was retained by the office of Ariel Lett, Esq to review the actions of Miami-Dade Correctional Officer Jean Dorvilier, in connection with the above identified case number and excessive force on ex-inmate Gamaly Hollis and to render opinions where appropriate to a reasonable degree of professional certainty based upon correctional training/standards regarding the claims contained within the civil complaint.

Qualifications

Clora Adkins has over 27 years of practical work experience at the Miami-Dade Corrections and Rehabilitation Center, one of the largest local corrections systems in the United States. She has extensive experience and expertise in the daily operation and staffing of small, medium, and large jail facilities. Ms. Adkins holds a bachelor's degree in Organizational Leadership from St. Thomas University in Miami, Florida.

Ms. Adkins, has extensive experience in intake and screening procedures; staff negligence; staff use-of-force; prisoner access to medical and mental health care; in-custody deaths; inmate suicide; sexual assault by staff/other prisoner; conditions of confinement; inmate classification, housing and supervision; strip/body cavity searches; jail record procedures; accommodations for disabled prisoners; jail/prison standards, policies and procedures; and the training of correctional staff, and supervisors.

Compensation & Publications

My firm charges an hourly rate of \$300.00 per hour. I am not aware of any relevant publications that I have published that would be relevant to the issues of this case.

Materials Reviewed

I have reviewed the following documents in preparing this report: Memo to File from Security and Internal Affairs Bureau produced by defendants, recorded statements, booking and medical records, photos of Ms. Gamaly Hollis and Incident Report F17-018991A.

Findings and General Opinions Supported Within Report

On November 1, 2017, Ms. Gamaly Hollis appeared before Judge Milton Hirsch in Courtroom #2-5 and was subsequently remanded into custody after refusing a program offered to her.

Ms. Hollis was removed from the courtroom without incident and processed by Miami-Dade Police Department (MDPD) liaison officers. Ms. Hollis was placed in a holding cell to await transport to the Pre-trial Detention Center (PTDC) by Miami-Dade Corrections and Rehabilitation (MDCRD) officers.

MDCRD Officers Jean Dorvilier and Anesta Hamilton arrived to transport Ms. Hollis and four arrestees to the PTDC. Ms. Hollis was upset because she had been waiting for hours without water. According to the Security and Internal Affairs Bureau report, Officer Hamilton writes in Incident Report #Z17-1106B, dated November 1, 2017, that Officer Dorvilier advises Officer Hamilton to monitor the male arrestees while he handcuffs Ms. Hollis. Ms. Hollis was told to exit the cell and place her hands behind her back by Officer Dorvilier at which time she grabbed her plastic bottle from the liaison officer's desk, stating. "This is mine. Ms. Hollis was advised by Officer

Dorvilier that she could not take it with her, and she was given several verbal commands to throw it away. She did not comply, and Officer Dorvilier took the bottle away from her and threw it in the garbage. As Officer Dorvilier turned around to handcuff Ms. Hollis, she spat in his face. She resisted, turned around and kicked Officer Dorvilier then fell to her knees where handcuffs were applied. Officer Hamilton stated that she later took photographs of Ms. Hollis.

There is conflicting reporting of the accounts of this incident by Officer Hamilton. On February 27, 2018, Officer Hamilton in a sworn statement to the investigator of the Security and Internal Affairs Bureau stated that she did not witness the use of force incident. She was standing outside the door and could not see as she was monitoring the male arrestees. Officer Hamilton heard Officer Dorvilier say, “that bitch spit on me,” and that he punched her. Officer Hamilton stated she re-entered the holding cell area to ascertain what was happening with Officer Dorvilier and Ms. Hollis. Officer Dorvilier advised Officer Hamilton what had occurred. Officer Hamilton was asked if she observed the spit, the punch, or the incident and she said “No.”

All incident reports need to be obtained to compare officer statements against their sworn recorded statements to the Security and Internal Affairs Bureau investigators.

Ms. Gamaly Hollis alleged that she refused to move to be transported to the PTDC because she was thirsty. Ms. Hollis had been in the holding cell for hours without water. Ms. Hollis stated that Officer Dorvilier began to pull her while she was in handcuffs in an attempt to move her after she refused to move. Furthermore, Ms. Hollis alleges that Officer Dorvilier started to beat her about her face repeatedly with a closed fist, knocking her to the floor. She assumes it may have been 3-4 times because when she would get up and he would punch her again. Ms. Hollis alleges that Officer Dorvilier was hitting her with a closed fist. Ms. Hollis stated that when she got up at some point she spit on his face. Ms. Hollis alleges that she was handcuffed the entire time.

Officer Jean Dorvilier, Court Services Bureau, used excessive force when he punched Ms. Gamaly Hollis repeatedly as alleged by her with a closed fist while handcuffed. Officer Anesta Hamilton, working in the immediate area, heard Officer Dorvilier say, "The bitch

spit on me,” and that he, referring to Officer Dorvilier, punched her. However, neither officer wrote an incident report on that date regarding the use of force. After hearing all the screaming and yelling from Ms. Hollis, Corporal Marlene Desir and Officer George Kilpatrick assisted Officer Dorvilier in transporting Ms. Hollis to the Pre-trial Detention Center’s female holding cell. Officer Kilpatrick said Ms. Hollis told him, “He hit me”. Officer Kilpatrick did not know if she was referring to a Miami-Dade police officer or Miami-Dade correctional officer. Officer Kilpatrick did not inquire, neither did he write an incident report. Officer Kilpatrick did not disclose this information to his supervisor, nor did he transport Ms. Hollis to the clinic for medical evaluation. Officer Kilpatrick violated departmental policy and procedures for not reporting the incident and failure to have Ms. Hollis evaluated by a medical professional.

Officer Bruce Young, MDPD, was assigned to the Court Services Bureau (CSB) and stated he was asked by Officer Dorvilier on November 1, 2017, to write a report on his (Officer Dorvilier) behalf regarding the incident between he and Ms. Hollis. Officer Young works for the MDPD, and Officer Dorvilier works for the MDCRD.

According to Officer Young, he wrote the report with the exact details provided by Officer Dorvilier. Officer Young was not there during the incident. It was the responsibility of Officer Dorvilier to write a report since Ms. Hollis was in his custody and to notify his supervisor. Additionally, Officer Hamilton should have written a statement that day documenting what Officer Dorvilier told her about the incident. Statements should have been obtained from the inmates in the immediate area since they were outside of the cell door where the use of force occurred and was in the proximity to hear the conversation between Officer Dorvilier, Officer Hamilton and Ms. Hollis. These inmate statements would have been obtained by an officer not involved in the incident on an investigative form for inmates. Additionally, the correctional officers who responded to the area upon hearing loud noises and screaming in the holding areas should have written statements as well once the initial incident report was written. No incident reports were written by correctional officers on November 1, 2017, regarding the Use of Force. Officer Dorvilier violated policy and procedures for failure to generate an incident report and a failure to transport Ms. Hollis to the facility clinic.

Officer Hamilton stated in a recorded statement to the Security and Internal Affairs Bureau that she took photos of Ms. Hollis' face; however, Ms. Hollis should have received medical attention when she was transported from the holding cell of the CSB to the PTDC. Officer Hamilton stated that Ms. Hollis refused medical attention. Ms. Hollis cannot refuse medical attention after a use of force incident. Ms. Hollis should have been taken to the clinic to be assessed for injuries by medical staff.

Miami-Dade Corrections and Rehabilitation Department Memorandum #D18-015, dated 05/25/2018, states in part, if physical force is used, sworn staff shall properly restrain the inmate in accordance with policies and procedures and escort the inmate to the facility's clinic for evaluation and treatment by the Inmate Medical Provider (IMP). Sworn staff's proximity to the inmate and IMP/QMHP during evaluation and treatment shall be as follows:

If the inmate is compliant, sworn staff shall be out of "earshot" of the medical evaluation and treatment area to allow privacy for the inmate and IMP/Qualified Mental Health Professional (QMHP). Staff's

proximity shall allow for visual observation of the inmate and IMP/QM HP and quick response if the situation changes.

INCIDENT REPORTS

A Use of Force or Response to Resistance incident occurred between Officer Dorvilier and Ms. Hollis on November 1, 2017. According to Ms. Hollis, Officer Dorvilier punched her several times with a closed fist and knocked her down and upon her getting up he punched her again. Ms. Hollis admits that she spat on Officer Dorvilier. Ms. Hollis alleges that she was punched several times and was knocked down prior to her spitting on Officer Dorvilier. The incident report would have to be checked to ascertain if Officer Dorvilier admits to punching Ms. Hollis as he stated to Officer Hamilton.

Officer Dorvilier asked MDPD Liaison Officer Young to enter an incident report on his behalf. Officer Young stated under oath to investigator Sandrene Dukes, Investigator, Security and Internal Affairs Bureau that Officer Dorvilier told him that he was hit and that he did not sustain any injuries. Officer Dorvilier stated that he used whatever was necessary to get her (Ms. Hollis) under control and

restrain her. Officer Dorvilier did not notify his supervisor regarding the use of force, nor did he take Ms. Hollis to the clinic per departmental policy and procedures. The report entered by Officer Young needs to be obtained to compare that report with the Corrections incident report written by Officer Dorvilier.

All MDCR reports need to be reviewed for consistency, since they were all written the day after the incident or later. The investigation from Internal Affairs indicated that the reports were dated November 1, 2017. The incident report should have the date of the incident and the date the report was entered into the system. If the incident report is dated November 1, 2017; and the report was written November 2, 2017, it could be considered falsifying documents.

Ms. Hollis was not seen by medical until her arrival at the TGK facility. Ms. Hollis states that she advised medical staff of the incident at TGK. Medical reports would need to be reviewed.

It was stated that several photos were taken of Ms. Hollis while she was incarcerated but it was difficult to ascertain where and when the photos were taken. The photos show that Ms. Hollis had dark or black bruises under her eye. The booking photo does not show any

bruises or injuries to the face. No one in contact with Ms. Hollis on November 1, 2017, stated that they saw bruises on Ms. Hollis face.

COURTROOM/BRIDGE HOLDING CELL

Once inmates are transferred over to the jail for booking from court, or they are being transported through the “bridge”, although the inmate has not been booked in the criminal justice information system, all incidents are to be documented and the supervisor notified. Once they are on the bridge and the body is transferred to correctional staff, the arrestee is the responsibility of the MDCRD. Incident reports can be categorized as information reports and later amended.

Corporal Marlene Desir, Relief Supervisor, heard loud screaming and hollering from Ms. Hollis in the holding cell area and she responded to see what was wrong. According to Corporal Desir, Ms. Hollis explained that she was thirsty and upset that the Judge had remanded her into custody. Corporal Desir took possession of Ms. Hollis from Officers Dorvilier and Hamilton and provided her with food and water. At that time, Ms. Hollis calmed down.

Corporal Desir was adamant in a sworn recorded statement to the Security and Internal Affairs Bureau that she wrote a report that day because she always writes reports when new arrestees are belligerent. What is not understandable is why Corporal Desir would write a report simply because an inmate was angry at the judge and loud.

Being angry, loud, or belligerent is not an uncommon occurrence in the Court Services Bureau or in corrections facilities in general. It is not a requirement to write a report unless something out of the ordinary has occurred. Corporal Desir said she did not witness any injuries to Ms. Hollis and that she wrote an incident report because Ms. Hollis was “giving staff a hard time”.

Corporal Desir stated under oath that, “when they give you a hard time you better write that report because when they get to another facility, the arrestee will say they did not give me water”. Corporal Desir stated she advised staff to write a report because “we don’t want anything to come back on us”.

Corporal Desir was asked by the investigator if she wrote a report that day. She eventually said she did not. She recanted and said that she wrote the report after they told her what happened.

(Referring to the incident involving Officer Dorvilier and Ms. Hollis) Corporal Desir admitted she generated a report due to Ms. Hollis' allegations. Her report was written on the 7th or 2nd (unable to ascertain date clearly from recording) and should be reviewed for consistency.

SUSTAINED INJURIES

Officer Hamilton states that she asked Ms. Hollis if she wanted to go to the clinic and she refused. Officer Hamilton has 11 years of tenure with the MDCRD; therefore, she should know that inmates cannot refuse to go to the clinic after a use of force incident pursuant to DSOP #11-041. If Ms. Hollis had been transported to the clinic she would have been medically screened for injuries and statement provided to medical staff regarding the incident.

Ms. Hollis was released on the same day that she was booked in the TGK facility. After her release, Ms. Hollis states that she went to the Hammock's Police Station to file a complaint. She receives a case number and is told to report the incident to the MDCRD's Security and Internal Affairs Bureau. While at the police station, Ms. Hollis calls fire rescue who assesses her and state that her injuries

consisted of a dark spot and inflammation. Photos reviewed show dark spots under the eye or bruising. Unknown what date the photos were taken. Ms. Hollis subsequently visited a doctor and provided contact information and medical documentation to the Security and Internal Affairs Bureau. On May 2, 2018, Investigator Sandrene Dukes attempted to verify the doctor's note; however, after several attempts she was unable to reach the medical provider to verify the authenticity of the documents.

Based on my review of Ms. Hollis' medical records, there were several documents that may support Ms. Hollis' allegations of sustaining injuries due to the November 1, 2017, use of force incident. I am not a medical expert, so I defer to the clinical findings of the medical doctor and the date Ms. Hollis obtained diagnostic tests regarding her medical condition.

The CT Scan report printed out by Joseph Scott, MD on 11/05/2017, shows a test performed by Dr. Jonathan Michael, MD, of the Sinus Facil Maxil. The clinical indication on the report shows left facial trauma, jaw pain, facial bruising, and difficulty hearing from the left ear. I am not a medical professional and have not had

training in the medical field. I am providing information based on the documents submitted to me for review.

July 17, 2018, and September 11, 2018, several audiology tests were performed on Ms. Hollis at Jackson Memorial Hospital.

On September 27, 2018, Ms. Hollis scheduled a follow-up visit to Jackson Memorial hospital after presenting with a complaint of hearing loss. The clinic notes indicate that Ms. Hollis advised that the hearing loss started after being assaulted and punched on the left side of her face in November 2017. An assessment and plan of action was provided to Ms. Hollis.

On September 27, 2018, Ms. Hollis was given a prescription to obtain hearing aids for single sided deafness.

DISCIPLINARY HISTORY

The MDCRD has an early warning and intervention system (EWIS) that identifies patterns and trends of staff's performance. Within that system is the Administrative Investigations Management System (AIMS). The AIMS tool collects and tracks data and generates alerts on staff's use of physical force when a preset threshold is reached. The Trend Analysis and Action Planning (TAAP) Unit

administers the AIMS. Officer Dorvilier files should be requested to ascertain if he has a history of excessive use of force and if there is a pattern of questionable behavior and complaints from inmates, the public or visitors.

Summary of Incident

Plaintiff Gamaly Hollis filed her Complaint in 2020, specifically claiming that, she was punched several times and knocked down after she asked for water and again when she spat on Officer Dorvilier.

Officer Dorvilier used excessive force against Ms. Hollis hereby violating Plaintiff's right to be free from cruel and unusual punishment under the Eighth Amendment of the Constitution of the United States of America and as applied to the States under the Fourteenth Amendment.

If Ms. Hollis refused to move or comply with his orders, her behavior did not rise to the level of punching Ms. Hollis repeatedly about the face. Ms. Hollis posed no physical threat to Officer Dorvilier by planting her feet and stiffening her body as not to move from position. Per Miami-Dade Corrections and Rehabilitation Department

Departmental Standard Operating Procedures (DSOP 11-041) Response to Resistance, Ms. Hollis behavior has now become a planned event. Officer Dorvilier was supposed to follow procedure by calling his supervisor to assess the situation and a plan to extract Ms. Hollis from the cell would be made. Additionally, the other option would have been to leave Ms. Hollis in the cell and escort the inmates waiting in the hallway to the PTDC. Given the totality of the circumstances, he could have de-escalated the situation like Corporal Desire did and that was to give Ms. Hollis some water. Officer Dorvilier created a security situation because Officer Hamilton had to leave where she was stationed with four unsupervised inmates to ascertain what was occurring with him and Ms. Hollis. The entire event was avoidable.

Standards Considered in Forming Opinions

1. MDCR Department Use of Force Policy

The Miami-Dade Corrections and Rehabilitation (MDCR) Department recognizes that there are occasions when physical force is necessary in response to inmate resistance to the law and departmental rules and regulations. Staff's use of physical force shall comply with the law and departmental policy. Staff shall not use physical force to punish, abuse, or harass inmates; nor use more physical force than reasonably necessary to gain compliance and restrain an inmate, control a situation, or protect self and/or others. Staff shall document all physical force events. MDCR reviews all physical force events to ensure compliance with policy and to identify and remedy systemic issues that may exist.

2. Use of Force (Generally)

Correction officers are allowed to use reasonable amount of force on inmates. Determining whether the force used was excessive, correctional officers looked to the following factors: (1) the relationship between the need for the use of force and the amount

of force used; (2) the extent of the inmate's injury; (3) any effort made by the officer to temper or to limit the amount of force; (4) the severity of the security problem at issue; (5) the threat reasonably perceived by the officer; and (6) whether the inmate was actively resisting.

Analysis & Opinions

In my opinion, with over 27 years in law enforcement, including the department of corrections, and working with internal affairs, the use of force and the chain of events that precipitated the use of force was not justified. Although Ms. Hollis admitted to locking her legs as to not move and admittedly spat on Officer Dorvilier, there was no physical threat to Officer Dorvilier to justify being punched several times in the face. MDCRD may be able to justify the force used after Ms. Hollis spit on him which was a spontaneous or unplanned event.

Officer Dorvilier punched Ms. Hollis several times with a closed fist. The incident could have been deescalated if Ms. Hollis had been given water. Now the inmate's response of not moving has escalated to a planned use of force event. All officers carry radios working in CSB and Officer Dorvilier was supposed to have radioed for

assistance or called for a supervisor per DSOP #11-041. Ms. Hollis was in a holding cell and could not go anywhere. Additionally, it is not known why Officer Dorvilier allowed Officer Hamilton, who was training, to stay with four male inmates while he handcuffed Ms. Hollis. Additionally, Officer Hamilton should have been the officer to go into the cell to handcuff Ms. Hollis.

As it pertains to justifying the use of force, MDCRD DSOP #11-041 looks at the totality of circumstances of all facts and circumstances known to the staff as the basis for response decisions. When there is a need to use physical force, staff shall weigh the totality of circumstances, which include but are not limited to:

- A. Resistance Level of the Inmate;
- B. Available Response Options;
- C. Situational factors that may influence staff's response. Staff shall continually assess the scene and inmate's resistance level to determine the response needed to gain compliance and control the situation. Factors that may influence response options include, but are not limited to:

1. Presence of other inmates who may potentially assist the inmate;
2. If known, inmate's:
 - a. Medical and/or mental/behavioral health history;
 - b. History of violence;
 - c. Combative skills;
3. Inmate's possession of or access to weapons;
4. Inmate's size, age, weight, and physical condition;
5. Staff member's size, age, weight, physical condition, and defensive tactics knowledge;
6. Nature and stability of the event or location;
7. Amount of time available to establish reasonable control.

Staff shall continuously assess the inmate's resistance throughout the event to escalate, de-escalate, and/or disengage force.

Officer Dorvilier failed to generate an incident report. None of the responding officers wrote reports and no one took statements from the inmates awaiting transport to the Pre-trial Detention Center. The "Bridge Supervisor" was responsible for investigating the incident surrounding Ms. Hollis. Additionally, Officer Dorvilier should have advised Corporal Desir, the supervisor on the Bridge, regarding problems he was having with Ms. Hollis.


Based on my experience working jointly with internal affairs, at Miami-Dade County Corrections and Rehabilitation Department, assistant to the department director, holding positions as a captain, acting chief and additionally I was the assistant director of the first juvenile assessment center in Miami-Dade County, and after reviewing the documents presented to me, in my opinion, the use of force was not justified in the CSB holding cell when Officer Duvilier punched Ms. Hollis several times knocking her to ground. MDCRD may justify the use of force when Ms. Hollis spit upon Officer Duvilier; however, he exasperated the matter which led up to Ms. Hollis action to spit on him. Officer Duvilier's creditability could become questionable as reports were not written in a timely manner, medical attention was not given after the use of force and a thorough

investigation of the incident was not conducted. Medical screening records and photos would be able to verify the bruise under Ms. Hollis' eye. The report from the Trend Analysis and Action Plan Unit's (TAAP) report should be reviewed to compare documents that may be used to obtain additional information regarding this Response to Resistance incident.

Ongoing Evaluation & Reservations

This report is based on documents received. I reserve the right to amend, alter, add to, or delete any of my observations and opinions whenever additional testimony, documents, or evidence is made available.

This Report is dated August 4, 2021, and signed by:



CLORA ADKINS