

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

ZALLASSIO SAIN,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:21-cv-00145-BBC
)	
DANE COUNTY AND DEPUTY)	
ADAM MATTSON, in his individual)	
capacity,)	
)	
Defendants.)	

REPORT OF JAIL OPERATIONS EXPERT JEFF EISER

1. I was retained to review case records and analyze issues associated with Mr. Zallassio Sain’s detention at the Dane County Jail (DCJ) located in Madison, Wisconsin. Specifically, I have been asked to provide my professional opinions pertaining to what happened during an incident which occurred on September 16, 2018 involving Mr. Sain and Deputy Adam Mattson, any applicable or recommended regulatory standards and contemporary corrections industry standards and practices as they relate to the operational procedures and practices of the DCJ, the duties and responsibilities of Dane County, and DCJ staff, including Deputy Mattson, to take reasonable and proper steps to protect Mr. Sain from harm while he was in their custody, and Deputy Mattson’s execution of his duties.

EXPERIENCE AND QUALIFICATIONS

2. My professional opinions are a function of the unique facts and circumstances in this case and are based on my training, education, practical experience and the contemporary jail industry standards and practices that existed at the time of the incident, specifically; the Wisconsin Administrative Code; Chapter DOC 350 Jails; the Standards for Adult Local Detention Facilities (4th Edition, June 2004) and the Core Jail Standards (1st Edition, 2010) promulgated by the American Correctional Association (ACA). Although they are not mandatory, ACA standards are recognized throughout the jail and detention industry as the principal authority for gauging reasonable conduct (i.e., the standard of care) in jail and detention operations. As such, ACA standards provide useful information and guidance for safely running jail and detention facilities throughout the country.

3. I have over 29 years of practical work experience in the operation and administration of one of the largest local corrections systems in the United States. I also have extensive experience and expertise in the operation and staffing of small, medium, and large jail facilities. During my career as a corrections administrator, I reviewed and analyzed every use of force incident which involved jail staff, assisted and led teams that planned, opened, and transitioned into two new major corrections facilities (800+ beds); negotiated labor contracts from the side of management and testified in verbal and written form in arbitration hearings. I researched, authored and administered promotional exams and assessment board interviews for supervisory and administrative positions, and I researched, authored, and updated departmental policy, procedures, and post orders for over 20 years.

4. I have written extensively on the subject of jail administration as co-author of the Ohio Jail Administrator's Handbook, in conjunction with the Ohio Bureau of Adult Detention, and I have personally researched and authored a large part of the curriculum used by the Ohio Peace Officer Training Council to certify corrections officers, supervisors and jail administrators.

5. Since 2002, I have been invited to serve as an adjunct instructor of criminal justice in the College of Evening and Continuing Education at the University of Cincinnati. I have been retained as a consultant and trainer for small, medium, and large jails and have participated as an instructor at national training seminars for the American Jail Association and the National Institute of Corrections – U.S. Department of Justice. I hold a Bachelor of Science Degree in Criminal Justice from the University of Dayton and a Master's Degree in Education from Xavier University (Cincinnati, Ohio). My experience in correctional facility operations, administration, and staff training has made me familiar with the basic constitutional, statutory, and common law obligations that apply to detention facilities such as the one located in Dane County, Wisconsin in 2018. My resume/curriculum vitae, fee schedule, list of publications, and a list of cases in which I have testified as a jail/prison operations expert in the last 4 years, are attached hereto.

6. I have testified as a jail operations expert in civil rights and tort litigation since 1994 for defendants and plaintiffs. I have been retained and/or testified in jail operations cases from almost every state in the country, including the state of Wisconsin, over the last 28 years. My expertise is in all areas of jail facility operations including: staffing, staff evaluation and discipline, inmate assault (failure to protect),

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 supervision, cross-gender supervision, inmate initial screening and booking, classification and housing, managing female and youthful offenders, strip/body cavity searches, inmate grievance procedures, facility records procedures, operational policies and procedures, and the training of jail staff, supervisors, and administrators.

FACTS AND DATA CONSIDERED

7. The opinions that I set forth in this report are based on the professional standards listed earlier, my education, training, and experience and my review of the following documents and video evidence listed below:

- a. First Amended Complaint filed 12/15/21;
- b. Answer and Affirmative Defenses to Amended Complaint;
- c. DCSO Use of Force/Vehicle Pursuit Review dated 9/27/18 by Lt. K. Porter;
- d. Map of CCB 6th and 7th Floors;
- e. DCSO Deputy Reports for Incident #180363045;
- f. Video of Incident – entitled “2018-09-16 10-53-00-268(1)”;
- g. Deposition of Adam Mattson;
- h. Deposition of Kyle Stumpf;
- i. Deposition of Zallasio Sain;
- j. Deposition of Krist Boldt;
- k. Dane County Sheriff’s Office – Security Services Manual Section: 606.01 Subject : Escorting Inmates;
- l. POWERPOINT file entitled “Principles of Subject Control – DCSO – Security Services Inservice 2009”;
- m. Employee evaluations for Adam Mattson;
- n. Personnel File for Adam Mattson.

METHODOLOGY

8. I employ the same methodology in forming my expert opinions that I employed in the field as an operations administrator. Specifically, this involves

gathering the relevant information, reviewing the governing regulatory and industry standards, and assessing the situation with those points in mind through the lens of experience, training, and education. Here, I considered the facts and data set forth above and formed opinions regarding the actions that were taken based on my training, education, and experience and in the setting of the specific facts of this case. To start this process, I reviewed the allegations in the complaint to help orient my analysis, but I formed my professional opinions independently of those allegations, except insofar as they helped focus the scope of my review.

OVERVIEW OF ALLEGATIONS CONCERNING JAIL OPERATIONAL DEFICIENCIES

9. At all times relevant to this Complaint, Zallassio Sain was incarcerated in the Dane County Jail (DCJ) located in Madison, Wisconsin. The plaintiff asserts that on September 16, 2018, he had a visit with family that was scheduled to last for 50 minutes. The plaintiff asserts he was not brought down for his visit until some of his visitation time had already elapsed. The plaintiff asserts that Deputy Stumpf, who belatedly brought him to the visitation room, explained the situation to the visitation officer and asked her to give Mr. Sain extra minutes on his visit to make up for the time he had missed through no fault of his own. The plaintiff asserts the visitation officer stated she would. The plaintiff asserts after about 40 minutes of visiting, he was told that his visit was over. The plaintiff asserts he protested that he was supposed to get some extra time, but the visitation officer mistakenly thought that she had already given him that time and required his visitors to leave. The plaintiff asserts at the DCJ, when visitation is over, first the visitors leave, and the inmates remain seated in the

visitation room until all the visitors are gone; a deputy then calls the inmates out by their housing unit location and escorts them back to their cells. The plaintiff asserts he heard the call for 6 East (where his cellblock was located) and he left the visitation room. The plaintiff asserts the officer who had called for the 6 East inmates was Deputy Adam Mattson. The plaintiff asserts Deputy Mattson asked if there were any other 6 E inmates in the visitation room. The plaintiff asserts he did not reply because he did not think Deputy Mattson was directing his question to him. The plaintiff asserts Deputy Mattson then yelled at him stating, "You hear me talking to you?" The plaintiff asserts he said that he thought that was Deputy Mattson's job, not his. The plaintiff asserts this exchange started a somewhat contentious conversation as Deputy Mattson escorted him back toward his cell. The plaintiff asserts on the way, he and Deputy Mattson encountered Deputy Stumpf, who asked what the problem was. The plaintiff asserts he explained to Deputy Stumpf that he had not been given the extension on his visit, and he was unhappy about that. The plaintiff asserts Deputy Stumpf offered to take him back to the visitation officer to try to straighten out the situation, but he said that it was too late, as his visitors had already left. The plaintiff asserts he told Deputy Stumpf, "Just take me back to my cell." The plaintiff asserts at that point, Deputy Mattson said, "No, he was going to take Mr. Sain to segregation for having been disrespectful to him." The plaintiff asserts Deputy Mattson then handcuffed his hands behind his back and began escorting him down the hall toward the stairs that lead to segregation in the lockdown block, with Deputy Stumpf following behind. The plaintiff asserts as Deputy Mattson was escorting him toward lockdown, Deputy Mattson was bending his wrists up in a painful way. The plaintiff asserts that he asked

Deputy Mattson why he was doing that. The plaintiff asserts Deputy Mattson said, “Keep walking,” and continued to apply pressure to his wrists. The plaintiff asserts he asked Deputy Mattson to stop doing that, but Deputy Mattson continued. The plaintiff asserts that just before he and Deputy Mattson reached the stairway leading to the lockdown block on the seventh floor, he turned back to Deputy Mattson to again complain about the pain from the handcuffs. The plaintiff asserts he then turned right, into the doorway to the stairway leading to the lockdown block on the seventh floor, since that was the way they were going. The plaintiff asserts as he turned towards the stairway, Deputy Mattson grabbed his arms and swung him around, slamming him headfirst into the opposite wall. The plaintiff asserts he lost consciousness and crumpled to the floor with blood streaming down his face. The plaintiff asserts the practice of Deputy Mattson bending his wrists was not carried out for any valid disciplinary purpose but rather, were a display of sadistic cruelty. The plaintiff asserts the action of Deputy Mattson suddenly slamming him face/head first into the wall was not carried out for any valid disciplinary purpose but was further sadistic cruelty.

DISCUSSION OF ISSUES AND OVERVIEW OF CASE RECORD

10. **Discussion of Jail Operational Issues:** The inmates in the Dane County Jail (DCJ) rely upon the staff for their personal needs and safety. Contemporary jail industry standards and practices recognize that all facilities are required to provide prisoners with the basic necessities of life and take reasonable steps to protect all detainees from any known risk to their health and/or safety. Taking reasonable steps to protect all detainees from harm is one of the most basic human essentials and

responsibilities for a jail. Clearly established jail industry practices and standards also require every correctional officer to take reasonable steps to protect detainees from harm including during the implementation of **any** level of force used on detainees in the facility. Based upon my training, education and experience, dealing with an inmate whose behavior could disrupt the operation of the facility and/or pose a safety threat to staff has become a common occurrence in our nation's corrections facilities. It is the duty and responsibility of the staff of any correctional facility to use reasonable force only when necessary to protect inmates and other staff from harm. Jail staff is required to "size up" each situation and attempt to use the least amount of force possible to control a situation. If possible, jail staff must attempt to use verbal and non-verbal de-escalation skills to help diffuse potentially volatile situations. A lack of deadly force options often requires jail staff to be skilled in verbal de-escalation skills and the use of "show of force" techniques. Regardless of the level of force used in any situation, any use of force must stop once the individual (detainee) is restrained and/or compliant.

11. **Initial concerns based on review of case record:** I started my analysis of the issues in this case with a review of the case record, specifically the actions and job performance of Dane County Deputy Adam Mattson, during an incident on September 16, 2018 at approximately 1053 hours which resulted in Mr. Sain receiving an injury to his head. I then assessed the actions of Deputy Mattson, in the performance of his duty to take reasonable steps to protect all detainees (including Mr. Sain) from harm and to ensure only an objectively reasonable and necessary amount of force was used during the incident. Based upon my initial review, I have

concerns about the practices of Deputy Mattson in relation to the September 16, 2018 incident. My concerns include:

- a. Deputy Adam Mattson's assertion that the incident that occurred on September 16, 2018 at approximately 1053 hours did not even qualify as a "use-of-force" incident, even though an official Use of Force Review was documented on September 27, 2018.
- b. A disturbing practice displayed and admitted to by Deputy Mattson of not ensuring he issued appropriate verbal safety and security directions to Mr. Sain during or after securing his hands/arms behind his back with handcuffs and prior to (or during) escorting him to a "disciplinary" housing unit which was located on another floor of the facility.
- c. A troubling practice by Deputy Mattson in his use of the phrase "a dynamic application of a trained technique" in his report, claiming he used a "stabilization" technique on Mr. Sain, when in fact the video evidence clearly shows a "balance displacement" and/or "throw" technique being utilized by Deputy Mattson on Mr. Sain.
- d. A disturbing practice of Deputy Mattson, failing to follow Dane County Jail policies and procedures and violating his duty to take reasonable steps to protect all detainees, including Mr. Sain, from harm.

12. **Opinions and Discussion of the Issues:** My education and training in the field of corrections has taught me to use five factors in evaluating whether an application of physical force was objectively reasonable and necessary in a correctional facility. (These same factors I personally used in reviewing hundreds of use-of-force incidents during my professional career). The factors are:

- a. What was the need for force to be used?
- b. How much force was used?
- c. What injuries did inmate sustain?
- d. What threat was reasonably perceived?
- e. What efforts to temper did officers make?

13. ***WAS THE USE OF FORCE OBJECTIVELY REASONABLE AND NECESSARY?*** The first critical issue and key question in this case is whether the measures taken by DCJ staff were applied in a good-faith effort to maintain or restore discipline or maliciously and sadistically for the purpose of causing harm. I have used these five factors in my analysis of the actions of Deputy Mattson during the incident involving Mr. Sain on September 16, 2018, and the results are summarized as:

- a. ***What was the need for force to be used?*** NONE. There was absolutely no need for Deputy Mattson to administer a “balance displacement” or “throw” technique as indicated by the case video evidence. The video (and their own Use of Force Review) indicates that Deputy Mattson “still had a grip on the inmate’s upper arm” when he claims Mr. Sain pulled away from him. The video evidence does indicate that Mr. Sain placed one foot on the first step of stairs leading

up to the next level when he was grabbed by Deputy Mattson and thrown into the adjacent wall. Deputy Mattson testified in his deposition that he failed to give any verbal directions or warnings to Mr. Sain about where to go before he grabbed him and initiated the throw technique. Deputy Mattson knew that Mr. Sain was handcuffed behind his back and would have no way to brace himself before he hit the wall. Mr. Sain testified that he had been incarcerated previously in the DCJ and knew the stairs led to the disciplinary housing unit (as well as the gym and meeting rooms) and he had walked up the stairs during the previous incarcerations without incident. If Deputy Mattson had issued simple verbal directions and instructions that he intended to use the elevator, this incident and Mr. Sain's injuries, more likely than not, would never have happened.

b. How much force was used? AN OBJECTIVELY UNREASONABLE AND UNNECESSARY LEVEL AS INDICATED BY THE VIDEO EVIDENCE. The use of a “balance displacement” or “throw” technique on a detainee who has his arms/hand cuffed behind his back is an inherently dangerous move and should only be used if all other alternatives have been exhausted. Deputy Mattson claims the technique used on Mr. Sain was a “stabilization” technique, but this claim is not supported by the video evidence. Again, if Deputy Mattson had issued simple verbal directions and instructions that he

intended to use the elevator, this incident and Mr. Sain's injuries, more likely than not, would never have happened.

c. *What injuries did inmate sustain?* Mr. Sain was temporarily knocked unconscious and sustained injuries to his head when he was thrown into the adjacent wall by Deputy Mattson.

d. *What threat was reasonably perceived?* NONE. Deputy Mattson admits in his deposition that Mr. Sain was not a "high risk" transport and stated that he "never ignored what he was told to do" and "followed all my directions" but was "being rude and disrespectful". There is no evidence that Mr. Sain tried to pull away from Deputy Mattson when he placed his foot on the first step. There was no imminent safety threat posed to Deputy Mattson from Mr. Sain, who was in front of him and was handcuffed behind his back.

e. *What efforts to temper did officers make?* NONE. Deputy Mattson testified that there was no attempt to give Mr. Sain any verbal direction when he realized the detainee had placed a foot on the first step. As stated earlier, if Deputy Mattson had issued simple verbal directions and instructions that he intended to use the elevator, this incident and Mr. Sain's injuries, more likely than not, would never have happened.

14. Based upon my training, education and experience, when performing a review and analysis of a use-of-force incident in a correctional facility setting, it is the facts at the time of the situation with which the staff is confronted that controls. The

objective reasonableness of any use of force by jail staff is a function of the unique circumstances of each case. There are two very serious failures by Deputy Mattson in this case. The first is obvious; the level of physical force utilized by Deputy Mattson far exceeded any threat posed by a handcuffed inmate who Mattson knew was cooperative but just verbally “disrespectful”, especially since Mattson knew he had a second officer trailing behind him to offer any assistance if it was needed. The second is the failure of Mattson to issue any verbal directions to Mr. Sain about his intention to use the elevator, before executing a balance displacement throw of Mr. Sain into the adjacent wall. Based upon the case video record the amount of force used on Mr. Sain, based upon the unique circumstances he presented, was entirely and objectively unreasonable and unnecessary. The egregious misconduct of Deputy is shocking and indicates a callous and deliberate indifference to the health and safety of Mr. Sain, in violation of the Dane County Jail policies and procedures, the Wisconsin Administrative Code; Chapter DOC 350 Jails and clearly established corrections industry standards and practices including the Performance Based Standards for Adult Local Detention Facilities (4th Edition; June 2004), and the Core Jail Standards (2010) promulgated by the American Correctional Association (ACA). Specifically, **DOC 350.22**, ACA Standards 4-**ALDF-2B-01**, and **1-CORE-2B-01**, which require:

DOC 350.22 Use of force: “The jail shall have policies and procedures for the use of force, including the following components:

(1) Jail staff may use physical force against an inmate only if force is necessary to change the location of an inmate or to prevent death or bodily injury to the staff member, the inmate, or someone else, unlawful damage to property, or the escape of an inmate from the jail. Staff may use only the amount of force reasonably necessary to achieve the objective for which force is used. Corporal punishment of inmates is forbidden.

4-ALDF-2B-01: “The use of physical force is restricted to instances of justifiable self-defense, protection of others, protection of property, and prevention of escapes, and then only as a last resort and in accordance with appropriate statutory authority. In no event is physical force used punishment.”

1-CORE-2B-01: “The use of physical force is restricted to instances of justifiable self-defense, protection of others, protection of property, and prevention of escapes, and then only as a last resort and in accordance with appropriate statutory authority. In event is physical force used as punishment.”

15. ***PROTECTION FROM HARM:*** The second critical issue in this case concerns whether Deputy Mattson took reasonable steps to protect Mr. Sain from harm during his incarceration and specifically on September 16, 2018. Based upon my training, education and experience (and the case record) the actions of Deputy Mattson during the September 16, 2018 use of force incidents involving Mr. Sain were entirely and objectively unreasonable and unnecessary and actually created unnecessary, serious and substantial risks to the health and safety of Mr. Sain. It is the duty and responsibility of all jail staff to minimize the risks to the health and safety of the inmates in their charge, not create, maximize and ignore the risks as was done in this case. The poor decisions and callous recklessness of Deputy Mattson are directly related to the injuries suffered by Mr. Sain. Based upon my training, education, and experience, the forceful physical re-direction of an inmate will always qualify as a “use-of-force”. The use of a “wall stabilization” technique for an inmate who is handcuffed behind his back does not include slamming the inmate against the wall or floor. A stabilization move is a **controlled** movement to place an inmate against a wall or floor, in contrast to the balance displacement technique exhibited by Deputy Mattson in the incident video. Balance displacement techniques (such as the “throw” initiated by Deputy Mattson) are “trained techniques” which carry a higher level of risk of injury to

the inmate and officer and can be used to separate from an actively resistive inmate or in an attempt to get an actively resistive inmate under control so they can be placed in restraints. Mr. Sain was not actively resisting and already in restraints and unable to brace himself before he hit the wall. Any attempt at initiating a balance displacement technique on an inmate with his hands and arms restrained behind his back and who is already admittedly “off balance” on the first step, such as what happened in this case, creates a dangerous, serious and unnecessary risk to the health and safety of the inmate. The actions and lack of verbal direction by Deputy Mattson created the “dynamic” incident which led to this lawsuit and his actions are directly related to the injuries suffered by Mr. Sain.

16. As stated earlier in this report, Deputy Mattson testified in his deposition that Mr. Sain was not a “high risk” transport and stated that he “never ignored what he was told to do” and “followed all my directions” but was “being rude and disrespectful”. There is no evidence that Mr. Sain tried to “break free” from Deputy Mattson when he placed his foot on the first step. There was no imminent safety threat posed to Deputy Mattson by Mr. Sain, who was in front of him and handcuffed behind his back (with a second officer trailing behind). Deputy Mattson testified he made no attempt to give Mr. Sain any verbal direction when he started his escort process in the hallway or when he realized the detainee had placed a foot on the first step. If Deputy Mattson had issued simple verbal directions and instructions that he intended to use the elevator, this incident and Mr. Sain’s injuries would never have happened.

17. The actions and practices exhibited in this case by the Deputy Mattson, as it relates to his duty to take reasonable steps to protect Mr. Sain from harm, are in

violation clearly established corrections industry standards and practices including the Performance-Based Standards for Adult Local Detention Facilities (4th Edition; June 2004) promulgated by the American Correctional Association (ACA). Specifically, ACA Standards **1A (Protection from injury and illness)** and **2A (Protection from Harm)**, which require:

ACA Standard 1A: “Staff, volunteers, contractors, and inmates are protected from injury and illness in the workplace.”

ACA Standard 2A: “The community, staff, volunteers, contractors, and inmates are protected from harm. The number and severity of events are minimized.”

SUMMARY OF OPINIONS

18. As stated earlier in this report, the inmates in the custody of the Dane County Jail rely upon the facility staff for their personal needs and safety. Taking reasonable steps to protect inmates from harm is a basic duty and responsibility of every jail administrator and their staff and includes creating a culture inside the correctional facility where jail staff would never think to use the physical abuse of inmates as a way of disciplining inmates and/or maintaining order and security. Clearly established corrections industry practices and standards require every correctional officer to take reasonable steps to protect detainees from harm, clearly that did not happen in this case. The use of force technique utilized by Officer Mattson was not applied in a good-faith effort to maintain or restore discipline, but, more likely than not, maliciously and sadistically for the purpose of causing harm or administering a form of discipline to Mr. Sain who he testified was being “rude” and “disrespectful”.

19. After my initial review, I render the following opinions based upon the case record and within a reasonable degree of professional certainty, incorporating by reference the opinions expressed in paragraphs 1- 18. I certify under the penalty of perjury that the foregoing opinions are true to the best of my knowledge, information and belief. I reserve the right to update and modify my opinions if additional information, facts or materials become available after the submission of this report:

a. The failure of Deputy Adam Mattson, to take reasonable steps to protect detainee Zallassio Sain from harm, violates the standard of care as established by the Wisconsin Administrative Code; Chapter DOC 350 Jails, and is in violation of clearly established corrections industry standards and practices.

b. Deputy Adam Mattson ignored known serious and substantial risks to the health and safety of detainee Zallassio Sain and employed physical force (including the application of balance displacement “throw” technique) against Mr. Sain (while he was already off balance and had his hands cuffed behind his back) which was objectively unreasonable, unnecessary and excessive on September 16, 2018 in violation of Dane County policies and procedures, the standard of care as established by the Wisconsin Administrative Code; Chapter DOC 350 Jails Jail Standards for Full-Service Facilities, and clearly established corrections industry standards and practices.

c. The use of force measures taken on September 16, 2018 by Deputy Adam Mattson were not applied in a good-faith effort to maintain or restore discipline, but rather maliciously and sadistically for the purpose of causing harm to Mr. Sain. Deputy Mattson created, and then ignored, serious and

substantial risks and his actions indicate a callous and deliberate indifference to the health and safety needs of Mr. Sain.

20. All my opinions expressed in this report are made within a reasonable degree of professional certainty. It is my understanding that discovery is ongoing, and I reserve the right to update and modify my opinions if additional information or materials become available.

Signed this 26th day of January, 2022 in Cincinnati, Ohio.

Jeff Eiser

Jeff Eiser

Attachments (2):

Exhibit #1 - Resume/CV

Exhibit #2 - List of Publications, fee schedule and list of all cases where I testified in a trial or deposition as a jail operations expert witness in the last four years.