



SERIOUS INFRACTION REPORT

JAN 16 1991

Clallam Bay Corrections Center

CBCC Hearings Office

INSTITUTION

F 9:30

STAFF REPORT

NAME: WRIGHT, Paul DOC # 930783 DATE: 1-15-91

NUMBER OF RULE VIOLATED: 552 TIME: 12:15 PM

DETAILS IN FULL:

PLACE: CBCC

On 1-15-91 at approximately 12:15 p.m. Inmate Wright was called to Captain Pacholke's office and interviewed about an article in the Prisoner Legal News. In this paper, Inmate Wright wrote an article stating Sgt. DeLong was beating and assaulting inmates at CBCC. Inmate Wright could not come up with an example that use of force was not justified by staff members due to the nature of the incident. These statements were unjust and there is no evidence to support them. It is felt that Inmate Wright wrote the article attempting to cause Sgt. DeLong to be penalized and/or proceeded against in some way.

WITNESSES:

[Signature]
REPORTING STAFF

:+lm

FACT FINDING DURING HEARING

Was inmate informed of right to remain silent? YES 1-18-91

PLEA: NOT GUILTY: 552 GUILTY: _____ DATE OF HEARING

Did inmate make statement after being informed of his/her rights? YES

If so, what?

The artical was not directed toward any staff. It is to inmates and their wives and families.

DECISION

FINDING: NOT GUILTY: _____ GUILTY: XXX 552

FACTS AND EVIDENCE FOUND: Report, evidence and inmate testimony are conclusive. Inmate admits writing the artical. It is clear, knowing the artical would be screened by all institution officials, that the artical was written in an attempt to cause a staff member to be penalized or proceeded against in some manner.

SANCTION(S):

20 days D-SEG and 30 days loss GCT

REASON FOR SANCTION: Because of wide circulation of the Prisoner Legal News and the admitted other legal action taken requesting an investigation by officials into the accused staff member's conduct at this facility, could cause reprisal or

WILL APPEAL

NO APPEAL

[Signature]
HEARING OFFICER

[Signature]
SUPERINTENDENT

retaliation against Sgt. DeLong by other inmates. There is no record of misconduct in this matter by Sergeant DeLong.

A few minutes later after [REDACTED] had his hands handcuffed behind his back he was dragged out of F Unit, his face visibly bruised, screaming in pain that his arm had been injured. Some 10 minutes later he was taken from the segregation unit (which is down the hall from F Unit) to the hospital for treatment. It has been reported that [REDACTED] arm was broken during the incident.

[REDACTED] had not been involved in the earlier fight in any way. He's also not a gang member nor affiliated with any gangs. Just like all the other cases of prisoners beaten by guards that I have witnessed here at CBCC, [REDACTED] has the misfortune of being small in size and young, as usual, it was an all white gang of prison guards that brutalized him. [REDACTED] has been involved in numerous assaults and beatings against prisoners in the past. Complaints to prison officials about past beatings have resulted in no action being taken and the abuses continue.

Complaints have been filed on [REDACTED] behalf with the U.S. Justice Department, the Governor's office, the NAACP and others. As readers of *PLN* may recall, it was the beating of prisoner [REDACTED] in March of 1990 that set off the riot in F Unit when outraged prisoners went to his aid and attempted to rescue him from the savage beating he was being subjected to in the F Unit rotunda. It appears that DOC officials prefer to let matters reach that stage than to train and discipline their staff. How many beatings does a guard have to be involved in before his superiors begin to suspect something is amiss?

As of this writing (Dec. 25, 1990) [REDACTED] is still being held in the hole and all his attackers are carrying on duty as usual.

Clallam Bay Prisoner Brutalized

By Paul Wright

On December 17, 1990, at about 6:35 in the evening several prisoners got into a fight in the F-Unit (Close Custody) rotunda area. Eventually guards carted the participants of that fight off to the "hole." At about 7:10 that evening [REDACTED] a black prisoner, was called to the F Unit duty office. Present in the duty office were Sgt.'s [REDACTED] and [REDACTED] and six prison guards and counselor [REDACTED]. F Unit prisoners, locked in our pods, watched in horror as [REDACTED] was browbeat into a corner by [REDACTED] and [REDACTED] who then rushed him and within seconds all 8 prison guards were on top of [REDACTED] and he was hidden from view.

PAUL WRIGHT # 930783
BOX 5000, HC-63
Clallam Bay, WA
98326-9775

NEAL BROWN
SUPERINTENDENT
CBCC

23 January, 1991

RE: APPEAL TO INFRACTION SF9101053

Dear Mr. Brown,

This is an appeal to a finding of "guilty" by Lt. Schouvillier in a kangaroo "disciplinary" hearing held on January 18, 1991. I was accused of writing an article in "Prisoners Legal News" concerning the brutal treatment Sgt. Delong and 7 other white prison guards meted out to black prisoner Aaron Fast on December 17, 1991, in which Mr. Fast's wrist was fractured.

On January 15, 1991, I was told by captain Pacholke that he was ordering me to be infracted and he was using sergeant Sowers as his stooge in writing the infraction. Prior to going to the hearing I was not provided with a copy of the article in question, the one I was given had all the names blacked out, and I was given no documents other than the infraction report. Before the hearing I requested that I be given copies of all documents to be used at the hearing and copies of the witness statements and a 24 hour continuance to prepare my defense. This was denied by the Lieutenant. This is a violation of WAC 137-28-085. I wrote to you and the hearing officer requesting these documents to prepare this appeal and you have ignored my plea's and the hearing officer (Lt. Schouvillier again denied it without explanation)

I requested that Lt. Schouvillier disqualify himself as hearing officer pursuant to WAC 137-28-065 (4) because as Captain Danny Pacholke instigated the infraction and the Lt. is Pacholke's subordinate there is undue pressure for a "guilty" finding. The lieutenant refused.

Sgt. Sowers violated my due process rights by not stating on the infraction that there are witnesses to the infraction; namely Pacholke who ordered the infraction written. Also, Sowers did not recommend what action should be taken. This violates WAC 137-28-045 (2) c and f. There is also reason to believe that Sowers lied as to when this copy of "PLN" arrived as the envelope was postmarked Seattle, 9 January, 1991 and it doesn't take 6 days for mail to get here from Seattle.

I requested the presence of witnesses present at this prison, this included yourself, Robert Delong, Danny Pacholke, Aaron Fast and John Adams. My witness request was denied by Lt. Schouvillier

NEAL BROWN
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who claims it is "Division wide practice" to deny witnesses and use witness statements instead. This is a lie as I have called numerous witnesses at disciplinary hearings at WSR and WSP. Not being allowed to call these witnesses and question them concerning the veracity of my article was a plain violation of WAC 137-28-090 (9) where no determination that any security reason existed to deny me the witnesses I requested. Nor was an attempt made to secure witness statements from Chase Riveland, who would have knowledge of brutality complaints made against Delong nor Robert Lindell, a prisoner at WSP who has been assaulted by Delong in the past.

WAC 137-28-093 (2) states that the hearing officer must rely only upon the evidence at the hearing in reaching his verdict. The fact is there was NO evidence produced at the kangaroo hearing that showed or claimed to show my article was in anyway inaccurate or untruthful. All there was is Sowers bald allegation in the infraction report. I am an eyewitness to the brutalization of Aaron fast. I presented affidavits from prisoners Marcus Ransom and Alan Wallin who witnessed the assault by Delong and the all white gang of prison guards attack Mr. Fast. Mr. Fast presented a witness statement describing the horrible assault instigated by Delong against him. Prisoner John Adams submitted a witness statement describing a similar assault on prisoner Elmer Gillis that occurred in December, 1990, by Delong. I provided a sworn affidavit from Mr. Gillis describing Delong attacking him. At the hearing Sowers claimed he investigated the attack on Mr. Fast, I asked him what the results were and he refused to say. Note that Delong in his witness statement does not even bother to deny the fact that he assaulted Mr. Fast. If Delong were in fact "innocent" of assaulting Mr. Fast why wouldn't he at least deny the matter? It's obvious, he may assault and beat prisoners but won't commit himself in writing to denying the beatings and assaults. Numerous complaints of Delongs assaults and racist behavior have been made and are known to you.

In any case, no evidence was presented to refute the truthfulness of my article.

The WAC I am accused of violating states: "552- Attempting or causing an innocent person to be penalized or proceeded against by lying to a staff member." I did not make this statement to any DOC employees. I wrote the article for publication in "Prisoner's Legal News" which I co-edit as I think the people of the United States and Washington tax payers have a right to know of the beatings of prisoners that occur in the Amerikkkan gulag archipelago. I have carefully reviewed the "PLN" mailing list and see no one on it that is employed by the DOC. And

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I also stand by the accuracy and truthfulness of my article which I based on my personal observations and the affidavits of 23 witnesses that I personally gathered after the assault on Mr. Fast. I did not make any complaints to yourself or DOC employees because I believe that no action to investigate the matter would be taken and you would cover up the incident as you have past incidents of beatings and misconduct by your staff.

Lt. Schouvillier specifically stated he was finding me guilty because I wrote to the US Justice Department, the NAACP and other legal organizations to investigate the attack on Mr. Fast. I sent these organizations affidavits of eyewitnesses to the attack and asked them to investigate it. I have no control over what they do after completing an investigation. The Justice Department has a duty under law to prosecute those guilty of violating civil rights. If they conclude Delong and his gang are civil rights violators they have a duty to take action as they see fit. It is sickening that you purport to be in "law enforcement" and punish those of us who report possible illegal activities to the appropriate authorities for investigation. You and your staff need to re-examine the oaths of office you have taken. In any case, the Justice department, et al., aren't "staff members" of the DOC for WAC 552 purposes, nor have they found my claims to be false.

Senator Talmadge told me that he has forwarded my complaint to Mr. Riveland to investigate. What are the results of that investigation?

Going beyond the numerous due process violations of my WAC rights and you and your staff's sleazy attempts to silence me for attempting to expose civil rights violations, I must inform you that I have a constitutional right to express my observations and beliefs and you may not punish me for that expression without violating my first amendment rights.

In Gray Vs. Creamer, 465 F.2d 179 (3rd Cir. 1972) the court held that prisoners publishing a newsletter "may have no constitutional right to distribute his materials within the prison, ... he does have a right to be free from discriminatory punishment inflicted solely because of his beliefs".

The US Supreme Court in Procunier Vs. Martinez 94 S.Ct. 1800 (1974) ruled that prison officials may not censor prisoner mail just to eliminate unflattering comments. Lower courts have applied this to hold unconstitutional disciplinary punishments and infractions against prisoners who expressed their beliefs in their mail, of which PLN is an extension, See: McNamara Vs.

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Moody, 606 F.2d 621, 624 (5th Cir. 1979); Brooks Vs. Andolina, 826 F.2d 1266 (3rd Cir. 1987); and Todaro Vs. Bowman, 872 F.2d 43 (3rd Cir. 1989).

So just because you and your lackeys are upset that I have written about the assault on Mr. Fast you cannot punish me for writing about it. Lt. Schouvillier's statement that I am also being punished for having written to the Justice department to investigate the assault is a blatant violation of my right to petition the government for the redress of complaints and grievances. This is a right guaranteed to all citizens and applies to government agencies and officials as well. See: California Motor Transport Company Vs. Trucking Unlimited, et al., 92 S.Ct. 509 (1972) and McDonald Vs. Smith, 105 S.Ct. 2787 (1985).

Therefore the infraction should be dismissed for all the above cited reasons. Since relieving this infraction I have been living in sheer terror of further punishment for petitioning government agencies, I can't sleep at night, have lost my appetite, have diarrhea, nausea and stomach cramps induced by this terroristic strong arm attack by Pacholke against me for writing this article.

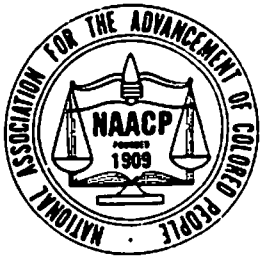
In the event you uphold the infraction, as I am sure you will in your attempt to silence me, you need to make arrangements for me to have access to my legal materials in segregation as well as a ink pen, paper, carbon paper, my legal notes and files and other items I need to be able to prosecute my 4 pending court actions. This will also include a need for books and such from the law library.

On a closing note, I don't know if you have ever served in the armed forces but I am curious to know how you feel about you and' your staff's terrorism to punish me for writing about civil rights violations by your staff and petitioning my government to stop these abuses, plainly protected first amendment rights for which many US soldiers have died face down in the mud to defend as cherished freedoms. Please don't make me lose faith in bourgeois democracy.

Thank you for your time and attention in this matter.

Sincerely,

Paul Wright.



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
4805-MT. HOPE DRIVE · BALTIMORE, MD 21215-3297 (301) 358-8900

BENJAMIN L. HOOKS
Executive Director/CEO

January 16, 1991

Mr. Paul Wright
Reg. No. 930783
Post Office Box 5000, HC-63
Clallam Bay, Washington 98326

Dear Mr. Wright:

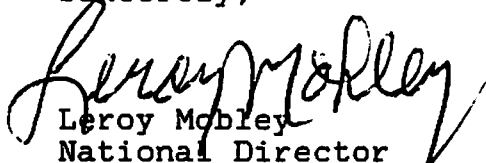
This will acknowledge receipt of my copy of your letter of December 18, 1990 and the accompanying enclosure.

The information you related to my office is quite serious and, possibly, life-threatening. Just because a person is incarcerated doesn't mean he loses all of his rights as a human being. The treatment that prisoner Aaron Fast allegedly received may be actionable in a court of law. This is a layman's opinion because I am not an attorney.

I am forwarding a copy of your letter to one of the NAACP Board member who lives in the state of Washington in hopes that he may be able to render assistance or point you to someone who can.

With best regards for you, I am

Sincerely,


Leroy Mobley
National Director
NAACP Prison Program

LM/ph

Enclosure