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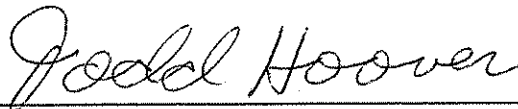
IN RE: : IN THE COURT OF COMMON PLEAS OF
: DAUPHIN COUNTY, PENNSYLVANIA
:
: NO. CP-22-MD-9-2008
THE FIFTH DAUPHIN COUNTY :
INVESTIGATING GRAND JURY : **NOTICE NUMBER: 05-2008-11**

ORDER OF COURT

AND NOW, this 23rd day of February, 2009;

IT IS HEREBY ORDERED that Presentment Number 3 is accepted. This Presentment shall be sealed and no person shall disclose a return of the Presentment except when necessary for issuance and execution of process, or as otherwise directed or permitted by order of the supervising judge. The Court finds that as a matter of law the facts stated in the Presentment establishes *prima facie* cases of the charges recommended. Disclosure is authorized for issuance and execution of process.

BY THE COURT



TODD A. HOOVER J.
SUPERVISING JUDGE

Distribution:

Francis T. Chardo, First Assistant District Attorney (C-4 copies)



**THE FIFTH DAUPHIN COUNTY
INVESTIGATING GRAND JURY**

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TO THE HONORABLE TODD A. HOOVER, SUPERVISING JUDGE:

PRESENTMENT NO. 3

We, the Fifth Dauphin County Investigating Grand Jury, duly charged to inquire into offenses against the criminal laws of the Commonwealth, have obtained knowledge of such matters from witnesses sworn by the Court and testifying before us. We find reasonable grounds to believe that a violation of the criminal laws has occurred. So finding with not fewer than twelve concurring, we do hereby make this presentment to the Court.

Foreman—Fifth Dauphin
County Investigating Grand Jury

Anthony J. Donnangelo

DATED: Feb. 20, 2009

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INTRODUCTION

We, the members of the Fifth Dauphin County Investigating Grand Jury, having received evidence pertaining to a possible violation of the Pennsylvania Crimes Code, pursuant to Notice of Submission of Investigation 05-2008-11, do hereby make the following findings of fact and recommendation of charges.

FINDINGS OF FACT

At 8:55 p.m. on December 28, 2008, a prisoner riot erupted in Block Q-2 of the Dauphin County Prison. At the time of the riot, Block Q-2 was housing individuals held on murder and other serious charges as well as other inmates with very high bail. The inmates housed on Block Q-2 at the time of the riot were the following individuals: Yusef Blake, Darrell Christian, Charles McKinley Cook, Jarrell M. Cornelius, Jorge Oquendo Gandia, Jesse Raphael Irvin, Christopher Darnell Jackson, Luis Rodriguez Ledee, William Lopez, Hakeem J. McDonald, Tymell J. McGriff, Tyrell L. Middleton, Walter K. Morris, Lavince J. Pate, George J. Sharp, Jerrell M. Stewart, and Frank W. Whitlock. For over one hour during the riot, the prisoners held Block Q-2 and no guards were able to enter the block. Using the prison's Correctional Emergency Response Team (CERT) and the Hostage Rescue Team (HRT), the guards retook Q-2 Block at approximately 10:01 p.m.

Events within Q-2 Block during the riot were recorded by a ceiling mounted camera and a hand held camera directed through a large surveillance window. During the riot, inmates threw objects at the ceiling mounted camera causing it to point towards the ceiling. Later, the camera began to record events below again when it was inadvertently knocked back into place by a thrown object. During the riot, inmates

attempted to block the view through the large surveillance window by throwing wet clothing, liquids, and other objects against the window. Inmates participating in the riot partially covered their faces with shirts. The videotape of the event shows a large number of inmates participating in the riot. One of the rioters pulled a metal request slip box off the wall. The metal box was attached to a rope or chain and was repeatedly thrown against the ceiling and the camera.

During the riot, the guards repeatedly gave audible commands to cease and desist. The guards instructed inmates who wished to comply to enter a certain cell on the first tier. The following inmates actively took part in the riot: William Lopez, Christopher Jackson, Tymell McGriff, George Sharp, Walter Morris, Yusef Blake, Jarrell Stewart, and Jorge Gandia.

While the guards were retaking the block, Jorge Gandia intentionally spit on Corrections Officer Josh Weikel from within several feet, striking him in the leg with saliva. This action was taken in furtherance of the actions of the conspirators who rioted. On the basis of co-conspirator liability, all of the riot conspirators are liable for this act. While the guards were retaking the block, Yusef Blake intentionally spit in the face of Sergeant Scott Lewis from within several feet. On the basis of co-conspirator liability, all of the riot conspirators are liable for this act.

William Lopez appeared to act as a ringleader. Prior to the riot, including on the day of the riot, Lopez referred to himself as "the general". While the riot was in progress, guards spoke to Lopez. When asked why the riot broke out, Lopez indicated that "the COs were acting like dickheads." In response to the orders to surrender, Lopez indicated that he was facing a long term of imprisonment and concluded, "fuck it,

you are to going to have to shoot me.” Unidentified inmates taunted the guards during the riot, shouting, “fuck you, pussies, come get us.”

Corrections Officer Josh Weikel observed Yusef Blake covering the windows with sheets and communicating with prisoners in another cell block using hand signals during the riot. Corrections Officer Weikel also observed Blake pushing bunks against outer doors creating a barricade. Corrections Officer Weikel observed Walter Morris throw a metal request slip box against the ceiling. Corrections Officer Weikel observed Charles Cook running around the block, making hand signals to prisoners in another block, and yelling obscenities. Corrections Officer Weikel observed George Sharp holding one of the metal request slip boxes during the riot.

Corrections Officer Roger Lucas observed Walter Morris tying one of the doors into the block to a metal grate using a bed sheet so that it would not open during the riot. Corrections Officer Lucas observed Christopher Jackson actively resisting the guards on the top tier after the guards entered to retake the block.

At 9:56 p.m., shortly before the guards retook the block, at least nine inmates had barricaded themselves on the second tier using mattresses as shields. When the HRT and CERT teams re-entered the block, members of those teams went up the steps and engaged the barricaded prisoners. The guards took custody of those inmates and brought them down the steps. The handheld videotape demonstrated which inmates had barricaded themselves on the top tier. These individuals shown on the video barricading themselves on the top tier included William Lopez, Jarrell Stewart, Yusef Blake, George Sharp, and Tymell McGriff.

The riot caused physical damage to Q-2 block as well as expenditures in

overtime and medical expenses incurred due to injuries to guards. As a result of the collective action of the rioters, Dauphin County suffered a pecuniary loss of at least \$11,000. This figure is likely to grow as additional expenditures directly related to the riot are made. The individuals causing damage and other pecuniary loss acted in furtherance of the conspiracy to riot. On the basis of co-conspirator liability all of the riot conspirators are liable for the institutional vandalism and other riotous acts committed by one or more of the members of the conspiracy.

Inmates other than those against whom the grand jury recommends charges were actively involved in the riot and equally culpable. At present, those individuals have not been identified. Charges against such individuals may be warranted in the future when they are identified.

RECOMMENDATION OF CHARGES

Based upon the evidence we have obtained and considered, which establishes a prima facie case, we, the members of the Fifth Dauphin County Investigating Grand Jury, recommend that the District Attorney or his designee, institute criminal proceedings against William Lopez, Christopher Jackson, Tymell McGriff, George Sharp, Walter Morris, Yusef Blake, Jarrell Stewart, Charles Cook, and Jorge Gandia and charge each with the following offenses under the Crimes Code: riot, criminal conspiracy to commit riot, two counts of aggravated harassment, and felony institutional vandalism.