

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WILLIAM F. DAVIS, III,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-67-SLR
)	
WARDEN RAPHAEL WILLIAMS,)	Jury Trial Requested
C/O DAVIES, CAPTAIN EMMIT)	
C/O REGINALD MAYES, and)	
DEBRA MUSCARELLA,)	
)	
Defendants.)	

AFFIDAVIT OF DEPUTY WARDEN MARK EMIG

I, Mark Emig, having been duly sworn by law, do hereby depose and state as follows:

1. I am employed by the State of Delaware Department of Correction ("DOC") as a Deputy Warden at the Howard R. Young Correctional Institution ("HRYCI"), Wilmington, Delaware. I have been employed by the DOC since March 1986 and as a Deputy Warden since August 2005.
2. In May 2004 I worked as a Captain/Facility Investigator at HRYCI. My responsibilities as a Facility Investigator included investigating serious incidents that occurred within the facility.
3. On May 31, 2004, Inmate William F. Davis, III and Inmate Brian Casey were involved in a fight during their chow time at HRYCI. As a result of the fight both inmates suffered injuries.

4. After the fight, the officers involved filled out incident reports describing the incident and the events that took place. In addition, Officer Pervone Cropper conducted an investigation into the events surrounding the fight.

5. Following the fight, Inmate Davis approached me and asked me about filing charges against Inmate Casey.

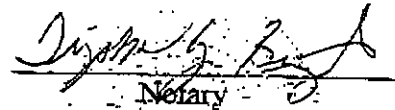
6. It is not the normal practice of HRYCI to seek criminal charges against inmates involved in fights. However, if it is determined that criminal charges may be warranted all information is forwarded to the Attorney General's Office. The deputy attorney general who processes the information then determines whether to pursue criminal charges and advises us of the decision.

7. In accordance with procedure, and in response to the request from Inmate Davis, I submitted information about the fight to a deputy attorney general at the Attorney General's Office for a decision on whether to pursue charges.

8. The Attorney General's Office declined to pursue charges against Inmate Casey because both inmates were fighting and they believed the better approach was to allow the facility to handle the incident. After receiving the decision from the Attorney General's Office, I informed Inmate Davis that the Attorney General would not pursue criminal charges against Casey.


Mark Emig

SWORN AND SUBSCRIBED before me this 15th day of October, 2007.


Notary

TYSHA Y. BRYANT
NOTARY PUBLIC
STATE OF DELAWARE
My Commission Expires Jan. 19, 2008