

Ex-jail officer arraigned on civil rights counts

Friday, 08 February 2008

Last Updated Friday, 08 February 2008

2 workers accused of conspiracy, falsification

By ERICA BLAKE
BLADE STAFF WRITER

Nearly seven months after he resigned amid accusations that he beat an inmate at the Lucas County jail, a former corrections officer was arraigned yesterday in federal court on charges of criminal civil rights violations. Seth Bunke, 25, now of Jacksonville, N.C., was arrested early yesterday in Toledo and arraigned in U.S. District Court on five counts of deprivation of rights under the color of law and one count of conspiracy.

He will appear at 11 a.m. today in federal court in Toledo for a hearing to determine whether he will be kept in custody pending the outcome of the case. Mr. Bunke, who was in Toledo to meet with his attorney when he was arrested, is being held at the federal detention center in Milan, Mich. Also charged were sheriff's Deputy Joel McConnell, 28, and James Kotlarcyk, 44, a corrections officer, who each face one count of conspiracy and falsification of records after they were accused of falsifying reports of the incident. Deputy McConnell and Mr. Kotlarcyk, who still are employed by the sheriff's office and still work in the jail, do not yet have a court date. The men are charged for an incident July 11 when an inmate, Jeff Jones, was kicked repeatedly in the head and side by Mr. Bunke after a verbal altercation, the indictment said. Deputy McConnell and Mr. Kotlarcyk are accused of volunteering "to write official reports concerning the incident" containing false information after ensuring that everyone was "on the same page." Mr. Bunke also is charged with civil rights violations for four other incidents - on March 10, May 5, May 6, and July 10 - in which five inmates were either "seized" or "assaulted" by the former corrections officer, the indictment said. Attorney Richard Kerger, who is representing Mr. Bunke, said the question will be whether any force used by Mr. Bunke was, in fact, criminal. "I think one of the things that makes these kinds of cases difficult is that you have officers who are in a job and who are confronted with situations while on the job," he said, adding that officers often are faced with the question of "what do you do" when dealing with an unruly individual. "It happens in the heat of the moment," he said. "You don't think about your reaction. It's nanoseconds." Jon Rogers, the director of internal affairs for the sheriff's office, said Mr. Bunke resigned within a few days of the July 11 incident after internal affairs investigators interviewed him. Mr. Rogers added that the U.S. Justice Department asked the sheriff's office to step aside soon after the incident so it could take over the investigation. The sheriff's office likely will conduct its own investigation into Deputy McConnell and Mr. Kotlarcyk's actions, Mr. Rogers said. Mr. Rogers said Deputy McConnell and Mr. Kotlarcyk have not had previous disciplinary records. He said both men were hired in February, 2006. According to the indictment, the three men were involved in transporting Jones, in custody for violating a condition of his parole from a 2006 drug possession conviction, from one floor to another. During a strip-search on the jail's fifth floor, the inmate allegedly refused to cooperate. The indictment further states that Deputy McConnell and Mr. Kotlarcyk "took [Jones] to the floor" and attempted to place him in handcuffs. It is then that Mr. Bunke repeatedly kicked Jones in the head and side, the indictment said. Mr. Bunke, a Marine Corps veteran who became known for his role in assisting rescued prisoner-of-war Army Pfc. Jessica Lynch in Iraq in 2003, said during a July interview with The Blade that he did not kick Jones and that he instead was just trying to subdue the inmate. Jones was taken to St. Vincent Mercy Medical Center, where he stayed for three nights, after the July 11 incident. He told the media soon after that he suffered a concussion, broken ribs, a collapsed lung, and dislocated shoulder. Mr. Bunke had been in trouble with the sheriff's office prior to the incident when he was found guilty after an internal investigation and suspended for 10 days for abusing his authority after he stopped a driver he suspected to be intoxicated on March 13. He had no police powers and was driving his personal vehicle. Mr. Kerger said his client is a "big man" and so was often the target of inmates looking to prove something. Mr. Bunke is 6 feet, 6 inches tall and weighs 290 pounds, Mr. Kerger said. "To an extent this presents a problem because guys try to take on a big guy," Mr. Kerger said. The indictment did not specify details regarding the other counts of civil rights violations. Mr. Kerger said those details would emerge through the discovery process. While a corrections officer, Mr. Bunke was paid an annual salary of about \$27,000. He now is employed at a Best Buy store in North Carolina in the security department, Mr. Kerger said. Deputy McConnell and Mr. Kotlarcyk are paid an annual salary of about \$27,000. The two men will continue working at the jail throughout the case, but might be reassigned to different jobs, Mr. Rogers said. Attorneys Alan Konop, who represents Deputy McConnell, and Jane Roman, who represents Mr. Kotlarcyk, each said they had not seen the indictment as of yesterday afternoon but had been expecting the charges. Mr. Konop said his client stands by his actions that day. "Joel McConnell is a well-respected law enforcement officer. He stands by the truthfulness of his report and the propriety of his conduct in attempting to subdue an unruly and disruptive inmate," Mr. Konop said. The case is being prosecuted by attorneys from the U.S. Department of Justice's civil rights division in Washington. Judge Jack Zouhary will preside over the case. The case is the second civil rights violation against sheriff's office employees indicted within the last few years. In July, two other sheriff's deputies charged with civil rights violations were exonerated by a federal jury. Deputies Marc Odums and

Troy Jackson were found not guilty of violating the civil rights of a 15-year-old boy in their custody at the county's Juvenile Detention Center. Deputy Jackson was exonerated of charges that he punched the teenager in the face and then lied about the situation. Deputy Odums was found not guilty of failing to intervene in the alleged beating and accusations that he lied on sheriff's office reports about the Jan. 20, 2005, incident as well as to the FBI, which was investigating. Both men remain employed at the sheriff's office. Contact Erica Blake at: eblake@theblade.com or 419-213-2134. Source: <http://www.toledoblade.com/apps/pbcs.dll/article?AID=/20080208/NEWS02/802080319>