

LB

2009 APR 14 11 09 16  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
TOLEDO

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 )  
 JOHN E. GRAY, )  
 JAY M. SCHMELTZ )  
 ROBERT E. McBROOM, and )  
 JAMES A. TELB )  
 )  
 Defendants. )  
 )

INDICTMENT  
JUDGE **JUDGE DAVID A. KATZ**  
CASE NO. **3:09 CR 182**  
Title 18 United States Code,  
Sections 2, 242, 1001 and 1519

The Grand Jury charges:

GENERAL ALLEGATIONS

1. At all times relevant to this Indictment, the Lucas County Sheriff's Office ("Sheriff's Office") was a law enforcement agency in Lucas County, Ohio. Among other functions, the Sheriff's Office guarded persons detained at the Lucas County Jail.

ORIGINAL

2

2. At all times relevant to this Indictment, employees of the Sheriff's Office were responsible for conducting themselves in compliance with federal, state and local laws, including the United States Constitution.

3. At all times relevant to this Indictment, defendant JOHN E. GRAY was employed by the Sheriff's Office, working as a Sergeant.

4. At all times relevant to this Indictment, defendant JAY M. SCHMELTZ was employed by the Sheriff's Office, working as a Deputy Sheriff.

5. At all times relevant to this Indictment, defendant ROBERT E. McBROOM was employed by the Sheriff's Office, working as an investigator in the Internal Affairs Department.

6. At all times relevant to this Indictment, defendant JAMES A. TELB was employed by the Sheriff's Office as the Lucas County Sheriff.

7. At all times relevant to this Indictment, C.B. was a pretrial detainee in the Jail; that is C.B. was under the custody and care of the Sheriff's Office after being charged with a crime, but prior to any trial or adjudication relating to the charges against him.

The Grand Jury further charges:

**COUNT 1**

[18 U.S.C. § 242 – Deprivation of Rights Under Color of Law]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count.
2. On or about May 30, 2004, in the Northern District of Ohio, Western Division, JOHN E. GRAY, defendant herein, while acting under color of law, assaulted and strangled detainee C.B., resulting in bodily injury and death to C.B., thereby willfully depriving C.B. of a right

secured and protected by the Constitution and laws of the United States; that is, the right not to be deprived of liberty without due process of law.

All in violation of Title 18, United States Code, Section 242.

The Grand Jury further charges:

**COUNT 2**

[18 U.S.C. § 242 – Deprivation of Rights Under Color of Law]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count.
2. On or about May 30, 2004, in the Northern District of Ohio, Western Division, JOHN E. GRAY, defendant herein, while acting under color of law and with deliberate indifference to the serious medical needs of C.B., failed to obtain necessary medical care and treatment for C.B., resulting in bodily injury and death to C.B., thereby willfully depriving C.B. of a right secured and protected by the Constitution and laws of the United States; that is, the right not to be deprived of liberty without due process of law.

In violation of Title 18, United States Code, Sections 242.

The Grand Jury further charges:

**COUNT 3**

[18 U.S.C. § 242 – Deprivation of Rights Under Color of Law]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count.
2. On or about May 30, 2004, in the Northern District of Ohio, Western Division, JAY M. SCHMELTZ, defendant herein, while acting under color of law, struck and assaulted C.B., a pretrial detainee at the Lucas County Jail, resulting in bodily injury to C.B., thereby willfully

depriving C.B. of a right secured and protected by the Constitution and laws of the United States; specifically, the right not to be deprived of liberty without due process of law.

All in violation of Title 18, United States Code, Section 242.

The Grand Jury further charges:

**COUNT 4**

[18 U.S.C. § 1519 – Falsification of a Document]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count.
2. On or about May 30, 2004, in the Northern District of Ohio, Western Division, JOHN E. GRAY, defendant herein, acting in relation to and in contemplation of a matter within the jurisdiction of the FBI, an agency of the United States, knowingly falsified and made false entries in a document – specifically, an official Critical Incident Report reflecting his actions, and the actions of his fellow corrections officers, in relation to uses of physical force on C.B. on May 30, 2004 – with the intent to impede, obstruct, and influence the investigation and proper administration of that matter.

Specifically, GRAY omitted from his official report any mention of his use of a “sleeper hold” on C.B.; any mention of the fact that he had rendered C.B. unconscious with the sleeper hold; and any mention that he had seen fellow officer Jay M. Schmeltz assault C.B. in the Jail’s Booking area while C.B. was handcuffed.

All in violation of 18 U.S.C. § 1519.

The Grand Jury further charges:

### COUNT 5

[18 U.S.C. § 1519 – Falsification of a Document]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count.

2. On or about June 1, 2004, in the Northern District of Ohio, Western Division, JOHN E. GRAY, defendant herein, acting in relation to and in contemplation of a matter within the jurisdiction of the FBI, an agency of the United States, knowingly falsified a document – specifically, an official Shift Commander’s and Floor Supervisor Report reflecting his actions, and the actions of his fellow corrections officers, in relation to uses of physical force on C.B. on May 30, 2004 – with the intent to impede, obstruct, and influence the investigation and proper administration of that matter.

Specifically, GRAY omitted from his official report any mention of his use of a “sleeper hold” on C.B.; any mention of the fact that he had rendered C.B. unconscious with the sleeper hold; and any mention that he had seen fellow officer Jay M. Schmeltz assault C.B. in the Jail’s Booking area while C.B. was handcuffed.

All in violation of 18 U.S.C. § 1519.

### COUNT 6

[18 U.S.C. § 1519 – Falsification of a Document]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count.

2. On or about May 30, 2004, in the Northern District of Ohio, Western Division, JAY M. SCHMELTZ, defendant herein, acting in relation to and in contemplation of a matter within the jurisdiction of an agency of the United States, knowingly falsified a document – specifically an official Correction Officer Report reflecting his actions, and the actions of his fellow corrections

officers, in relation to uses of physical force on C.B. on May 30, 2004 – with the intent to impede, obstruct, and influence the investigation and proper administration of that matter.

Specifically, SCHMELTZ omitted from his official report any mention of his assault of C.B. in the Jail’s Booking area; any mention of John E. Gray’s use of a “sleeper hold” on C.B.; and any mention of the fact that Gray had rendered C.B. unconscious with the sleeper hold.

All in violation of 18 U.S.C. § 1519.

The Grand Jury further charges that:

**COUNT 7**

[18 U.S.C. § 1519 – Falsification of a Document]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count.

2. On or about June 1, 2004, in the Northern District of Ohio, Western Division, JAY M. SCHMELTZ, defendant herein, acting in relation to and in contemplation of a matter within the jurisdiction of an agency of the United States, knowingly falsified a document – specifically an official Correction Officer Report reflecting his actions, and the actions of his fellow corrections officers, in relation to uses of physical force on C.B. on May 30, 2004 – with the intent to impede, obstruct, and influence the investigation and proper administration of that matter.

Specifically, SCHMELTZ omitted from his official report any mention of his assault of C.B. in the Jail’s Booking area; any mention of John E. Gray’s use of a “sleeper hold” on C.B.; and any mention of the fact that Gray had rendered C.B. unconscious with the sleeper hold.

All in violation of 18 U.S.C. § 1519.

The Grand Jury further charges:

**COUNT 8**

[18 U.S.C. §§ 4 and 2 – Misprision of a Felony; Aiding and Abetting]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count.
2. On or about June 1, 2004, and continuing until the present date, in the Northern District of Ohio, Western Division, JAMES A. TELB and ROBERT E. McBROOM, defendants herein, while aiding and abetting one another, and having knowledge of the actual commission of a felony cognizable by a court of the United States, concealed and did not as soon as possible make that crime known to a judge or other federal official; specifically, the defendants made false statements to federal officials about their knowledge of John E. Gray's violations of 18 U.S.C. § 242; provided false and misleading documents to state investigators describing Gray's actions; and suppressed an internal investigation into Gray's actions.

All in violation of 18 U.S.C. §§ 4 and 2.

The Grand Jury further charges:

**COUNT 9**

[18 U.S.C. §1001 – False Statement]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count of the indictment.
2. The Federal Bureau of Investigation ("FBI") is an agency of the United States that is charged with, among other things, investigating federal crimes, including federal civil rights crimes.

3. On or about July 14, 2008, and on or about October 30, 2008, in the Northern District of Ohio, Western Division, JOHN E. GRAY, defendant herein, in a matter within the jurisdiction of the executive branch of the United States, knowingly and willfully made materially false statements to an FBI agent investigating the civil rights violations charged in Counts 1 and 2 and incorporated herein; specifically, GRAY stated to the FBI, in substance, that GRAY observed C.B. breathing and moving after GRAY used a sleeper hold on C.B.; in truth and in fact, GRAY well knew that GRAY did not see C.B. breathing and moving after the sleeper hold.

All in violation of 18 U.S.C. § 1001.

The Grand Jury further charges:

**COUNT 10**

[18 U.S.C. §1001 – False Statement]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count of the indictment.

2. The Federal Bureau of Investigation (“FBI”) is an agency of the United States that is charged with, among other things, investigating federal crimes, including federal civil rights crimes.

3. On or about July 18, 2008, in the Northern District of Ohio, Western Division, JAMES A. TELB, defendant herein, in a matter within the jurisdiction of the executive branch of the United States, knowingly and willfully made materially false statements to an FBI agent investigating the civil rights violations charged in Counts 1 and 2 and incorporated herein; specifically, TELB stated to the FBI, in substance, that he had no knowledge in 2004 that John E. Gray had used a sleeper hold on C.B. prior to C.B.’s death; in truth and in fact, TELB well knew

that TELB had been advised in 2004 that Gray had used a sleeper hold on C.B. prior to C.B.s' death.

All in violation of 18 U.S.C. § 1001.

**COUNT 11**

[18 U.S.C. §1001 – False Statement]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count of the indictment.

2. The Federal Bureau of Investigation ("FBI") is an agency of the United States that is charged with, among other things, investigating federal crimes, including federal civil rights crimes.

3. On or about October 28, 2008, and on or about February 3, 2009, in the Northern District of Ohio, Western Division, JAY M. SCHMELTZ, defendant herein, in a matter within the jurisdiction of the executive branch of the United States, knowingly and willfully made materially false statements to an FBI agent investigating the civil rights violations charged in Counts 1 and 2 and incorporated herein; specifically, SCHMELTZ stated to the FBI, in substance, that he did not see John E. Gray use a sleeper hold on C.B.; in truth and in fact, on each of these occasions, SCHMELTZ well knew that SCHMELTZ did see Gray use a sleeper hold on C.B.

All in violation of 18 U.S.C. § 1001.

The Grand Jury further charges:

COUNT 12

[18 U.S.C. §1001 – False Statement]

1. Paragraphs 1-7 of the General Allegations are incorporated by reference in this count of the indictment.

2. The Federal Bureau of Investigation (“FBI”) is an agency of the United States that is charged with, among other things, investigating federal crimes, including federal civil rights crimes.

3. On or about June 12, 2008, October 29, 2008, and February 23, 2009, in the Northern District of Ohio, Western Division, ROBERT E. McBROOM, defendant herein, in a matter within the jurisdiction of the executive branch of the United States, knowingly and willfully made materially false statements to an FBI agent investigating the civil rights violations charged in Counts 1 and 2 and incorporated herein. Specifically, on June 12, 2008, McBROOM stated to the FBI, in substance, that he had no knowledge in 2004 that John E. Gray had used a sleeper hold on C.B. prior to C.B.’s death; and on October 29, 2008, and February 23, <sup>2009</sup>~~2008~~, McBROOM stated <sup>RAM</sup> <sub>14 April '09</sub> to the FBI, in substance, that he did not know whether Sheriff James A. Telb had been informed in 2004 that John E. Gray had used a sleeper hold on C.B. prior to C.B.’s death; in truth and in fact, on each of these occasions, McBROOM well knew that John E. Gray had used a sleeper hold on C.B., and that McBROOM was present when the Sheriff had been so informed.

All in violation of 18 U.S.C. § 1001.

A TRUE BILL.

Original document -- Signatures on file with the Clerk of Courts, pursuant to the E-Government Act of 2002.