

ENTERED
4.02.08

BEFORE THE WEBSTER COUNTY CIVIL SERVICE COMMISSION

CURTIS W. RUBY,)	CASE NO.
Appellant,)	
)	
v.)	
)	
WEBSTER COUNTY SHERIFF'S OFFICE))	CURTIS W. RUBY'S AFFIDAVIT
)	ON RE-DIRECT EXAMINATION
)	
)	
)	
Defendants.)	

I, Curtis W. Ruby, swear and affirm as follows:

1. At the time of Rhonda's mother's final illness, I did not make a written request for time off, nor did I ask for a leave of absence, because I knew that the department was short of personnel. I knew that it would not be responsible to try to take any extended time off at that time. Chris O'Brien and I agreed to the lengthier breaks at home during times when I was otherwise not needed.

2. I did not ever say that I would fight Sheriff Mickelson to the death or anything at all that even comes close to that accusation. Chief Deputy O'Brien simply remembers wrong several months later when he was writing down events he wished to criticize me for, or he is purposefully misquoting what I said.

3. I do not know how Chief Deputy O'Brien divides the responsibility for scheduling with other shifts. However, since he has become the Chief Deputy, he has taken that responsibility away from me. He does not consult with me, nor does he inform me about what is happening in terms of scheduling on the shift that I was responsible for. That made my job more

difficult. I was not in any position, with my own situation to “conduct an investigation” of what happened on March 30, 2006. However, if Deputy Richardson had simply taken the day off without permission, everyone in the department would have known it. In fact, I believe that, as usual, Chief Deputy O’Brien signed a vacation slip and then “lost it” sometime later. The shortage of personnel on the shift was not my responsibility, but his.

4. To the best of my knowledge I did not see the July, 2006 flyer which identified me as a Sergeant of the Webster County Sheriff’s Office in connection with the Women’s Self Defense Course. When I saw the September flyer, I brought it to Chance Walker’s attention.

5. I believe that any attempt on my part to discipline Mike Halligan would have been immediately reversed by Chief Deputy O’Brien and/or Sheriff Mickelson. Rather than improving Halligan’s behavior, that would have simply encouraged his disrespectful and insubordinate attitude toward me. Written reprimands and the recommendation of other penalties are subject to the Sheriff’s approval and only the Chief Deputy can impose an emergency suspension and then, only until the next business day. (Exb. A, G.O, p. 233 (13)) The only possible discipline I could impose was an oral reprimand (Exb. A, G.O., p. 233 (13)), which I had done in substance many times, to no avail.

6. I believe that Chief Deputy O’Brien’s assignment of me to sit on the house on September 9th was intended to be punitive. I believe he did not make a serious effort to get reserve deputies because he sought to undermine me and discredit me. He assigned a task to me that should have been, and most likely would have been done by one of the dozen or more reserve deputies, not a sergeant. (See Exb. 26)

7. With respect to the meeting of September 18, 2006 about the fitness for duty examination that I was forced to undergo in September, 2006, though some of my comments

were not wise, it was far more inappropriate for the administration to ask me to undergo this examination. It was meant to punish, embarrass and discredit me. At this point, my every move was being monitored, the Chief Deputy was desperately trying to “get dirt” on me. I was the one walking on egg shells. Fitness for duty examinations can only be done when all other methods of handling a situation have been tried. In my case, they tried nothing. They did nothing. They asked nothing and they simply sought an excuse to send me for FFDE. The only thing that happened immediately prior to the September 19, 2001 FFDE was the search warrant event.

Thereafter, Exhibit K and the Walters memo that is part of Exhibit W were solicited by the Chief Deputy, which contain unjustified accusations and outrageous suggestions, which were then passed on to Dr. Eva Christiansen and poisoned the well before I ever got through the door of her office.

8. I was not, in fact, actually aware of any provision by which I could call the members of the Board of Supervisor’s attention to the conduct of the Sheriff. Given the retaliation I experienced for simply being critical of the Sheriff’s competence in private, it is hard to imagine how difficult my life would have been had I taken the steps outlined in the General Orders. In the case of Chief Deputy O’Brien, he admitted that he was actually familiar with the sections of the general order that required that an investigation be conducted of every alleged act of misconduct and that it contain certain matters. He simply chose to ignore it and the other sections of the General Orders that were brought to his attention during the trial.

9. The discussion of the barricaded hostage is inappropriate. I did not view the November 13, 2007 suicidal person as a barricaded suspect. (Exb. AA) She was not barricaded. Barricaded hostage situations are when a suspect is contacted and requested or ordered to surrender and the subject is then non-compliant and refuses to surrender and come out from his

or her location. In this case, the subject immediately exited upon request. Had she not complied, we could have then considered the situation a barricaded suspect and in this case, the officer in charge would have been Chief Deputy O'Brien.

When the officers contacted her on the phone, she came out of the trailer, and she did not in any way resist. She was simply distressed, scared and very sad. To have treated her as a barricaded suspect would have been an extreme and unnecessary over reaction.

At any time, Chief Deputy O'Brien could have, but did not, ask what I was doing or why. My conduct was never criticized or discussed with me. For Sheriff Mickelson and Chief Deputy O'Brien, nothing I did was right. I couldn't have pleased them no matter what. If I had waited and chatted with Chief Deputy O'Brien about what to do, I am confident he would have accused me of dereliction of duty for not immediately locating the trailer, because there was an urgency to do so. If I had not contacted the landlord, he would have accused me of neglecting my duty by not doing so. His view of me was so distorted by his own feelings that he could not judge my conduct fairly.

10. In regards to my not filing a written complaint against Chief Deputy Jim O'Brien, when I complained to Sheriff Mickelson after the search warrant event of September 9 that it appeared Chief Deputy O'Brien had lied to me and to the Police department's shift supervisor about not being able to locate reserves to sit on the house, I had no supporting facts. I did have reason to believe that he didn't make much effort. This is based upon my being told by several reserve deputies that they were not even called and one reserve telling me he had been called but told he wasn't needed to secure the house in order to free up deputies. Had the Sheriff investigated this and it was found to have been the case, then the sheriff could have given me the option to file a formal written complaint. Of course, a deputy is presumed to know what the

General Orders consider to be wrong behavior in the course of his or her duties. I don't see how it applies to a deputy not researching how to bring about a formal complaint against a higher ranking officer

11. My early honorable discharge did not result from any disrespect for authority or any rule breaking on my part. I was to be sent to Germany for 6 months for field exercises. My contract, when I signed up for the Army, stated that I would not be sent overseas during peace time. When we learned that I was to go to Germany, my first wife became very upset and asked that I challenge the contract. We were still trying to patch up marital problems. I followed the chain of command procedures to see the Captain. I presented my concerns about the contract and my marriage. His response was that he would make things difficult for me if I pushed the issue and with one phone call and on his say so he could have me thrown in jail. I responded by saying that if he was to go so low as to lie to have me jailed, I'd give him a real reason to have me locked up. An Army counselor, Major Ed Chance, learned of my being harassed by this Captain after the meeting and intervened, allowing me to be honorably discharged. Major Chance had had other complaints regarding this Captain, and it was my understanding this Captain was reassigned as a result his conduct involving me and another soldier who had filed a lawsuit against the Captain. Attached as Exhibit 541 is a letter that my Platoon Sergeant sent to me after my discharge saying that I was a good soldier. He sent it to me in case anyone ever questioned my early discharge. This is the first time that it has come in handy in the 30 years since.

12. Exb. 5, p. 301 – 302, dated April 12, 1993, is insofar as I recall, a generally accurate recordation of my comments on domestic violence, and on my personal failures as a human being. I wanted to share with other men that we don't have to remain locked in a negative

mindset with regards to our personal relationships, that we can learn other approaches. It isn't easy to incorporate all of this type of information, nor is it easy to make these types of changes. What we learn first when we are young isn't easy to shake.

I attribute much of my personal growth to my marriage to Rhonda, which occurred in 1991, and to my interest and study and teaching of the cause, treatment and handling of domestic violence. The statement read to me by counsel for the Sheriff from that article was "If we do a bad job with the victim, it doesn't matter whether we give them cards or referrals or anything else. They're probably not going to go [to the shelter or for counseling] because we've shut them down, and it also shuts down our investigation. It ruins everything." In my dealing with Virginia Carlson and Alicia Wardlow, I was trying not to shut them down. I was administering "psychological first aid" as I described in the article. I may well have been the first person to give them positive feedback and understanding and give them real alternatives.

13. The verbal warning that I got from the Fort Dodge Police Department on March 22, 1985 is Exhibit II, and being sent home on July 2, 1991, which is Exhibit HH were matters I simply forgot. Upon review of the documentation that is HH, what I believe occurred is that I said out loud that I was going to go with other officers to the shooting range to relieve stress. As I examine it, it is hard to see what I did that was considered wrong.

14. I admit that communicating my displeasure with the administration's approach with me and any perceived problems could be deemed insubordinate under the general orders due to the disrespectful language, if one also decided to go as far as interpreting my voice tone or body language as disrespectful, which would be subjective. The last sentence of the Order certainly does not apply as I was not mutinous, insolent, or abusive. I was only conveying my

unhappiness with their decisions and actions directed toward me. I think I could have done a better job of doing that but in the moment, I did the best I could.

15. Exhibit MM, dated January 10, 1994 reflects a discussion and may or may not have been a verbal warning. I think it was not, because it does not say it was a verbal warning.

16. Exb. GG (9-13-93) is a memo, couched in a very polite language trying to resolve a problem. It certainly wasn't a discipline or warning. I wrote it to the Chief, not vice versa.

17. Defendants Exhibit JJ, the settlement agreement regarding a PERB case grew out of my grievance about the police department's unwillingness to permit me to do the kind of community service and teaching that I wished to do. I had not taught in my police uniform or done the other things that were suggested. Of course, I agreed that in return for permitting me to provide the community service events I wished to, that I would be happy to comply with those rules.

18. Some of my law enforcement colleagues, including Chief Metzger were very opposed to my work on domestic violence and believed in the myths about it, such as women bring it on themselves and if they don't like it they should leave. My work on these issues was controversial. Officers who worked off duty in uniform at bars and nightclubs did not get criticism. Officers who coached sport teams and were identified as law enforcement officers, were not disciplined. It was the nature of my community service on behalf of domestic violence survivors that generated concern, more than the way in which I was doing it.

19. MMPI examinations are required as a condition of promotion, some of which I applied for while I was in the Fort Dodge Police Department.

20. I do not use the Advocate Training Manual by the Iowa Coalition of Domestic Violence but there is nothing in it that I disagree with.

21. With respect to the Carlson incident, as I understand the law, I am not required to arrest, unless there is bodily harm. In the case of having one's hair pulled, that may inflict pain or it may not. The fact that the daughter wanted an arrest was a consideration for me, but not nearly as much a consideration as the wishes of this woman who had been married to this man for 57 years and who I felt, with a little time and patience, would be able to break the cycle of domestic violence forever. I am glad she was able to do so.

22. With respect to Virginia Carlson or any other victim of domestic violence, the suggestion that I failed to immediately arrest a suspect because I feared legal liability is ludicrous and offensive. In every case, I did what was required by the law and what I believed best for the victim. I honored the wishes of the victim when I felt that was best, and I arrested the perpetrator when the law required it with never ever a thought as to whether or not someone might sue me.

23 Now the Sheriff appears to have added to his charge with respect to the Wardlow incident challenging my decision not to arrest Long for OMVI at the scene. It is my understanding that he is not allowed by the law to expand the things he has said in his statement of the charges against me on December 13. But to illustrate again how subjective and made up these charges are, I want to address this new charge. At the time and place of this incident, and remember I was there and the Sheriff was not, the guy didn't appear to be intoxicated. I didn't smell alcohol on him, but given the reputation of the house and area, I assumed he probably was on drugs, but he didn't appear to be unable to function. The victim's affidavit says he had been drinking but that is not consistent with my observations. There was no swaying of the upper body or loss of balance, slurred speech, or smell of alcohol. Defusing the situation by getting her and the kids away to an safe location unknown to him removed his primary motive for

driving. Also I warned him sternly not to drive again and told him if he did, he would be arrested.

24. I have reviewed Exb. DD, the affidavit of Tony Walters. I do not recall saying I was a "gumpy old man," but I may have done so. Comments such as this would have been said always in a light and joking manner. I do not recall the incident he describes on a gravel road by a river. From the rest of the affidavit and from his statement attached to the material sent to Eva Christiansen, it is clear that Deputy Walters was misinterpreting my words and actions in a negative way. As a new deputy, he may be seeking favor from the administration by cooperating with them in their on-going efforts to justify their conduct towards me.

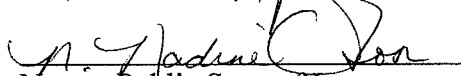
25. From the newspaper articles, Exb. 5, it is clear that I have made no secret of my troubled past. I have talked about it publicly so others will understand that change is possible and that each of us is responsible for our own behavior. I have taken responsibility for my own actions.

26. On every day for the last 28 years that I have been in law enforcement I have done my level best to serve and to protect and to do my duty. I have never intentionally ignored the law or the general orders. I have loved being a peace officer and accepted the inevitable problems that come with the job. I want to go back to work for the people of Webster County.



Curtis W. Ruby

Subscribed and sworn to before me this 1 day of April, 2008.


Notary Public State of Iowa

5/23/10

Department of the Army
1st Military Police Company
Fort Riley, Kansas 66442



AF2N-MP

SUBJECT: Letter of Appreciation

TO: PFC Curtis W. Ruby
479-82-0913
1st Military Police Company
1st Infantry Division
Fort Riley, Kansas 66442

I would like to take this opportunity to thank you for your efforts while serving in the Security Platoon, 1st Military Police Company, Fort Riley, Kansas. During your entire time of service with this platoon, I truly felt that you did an outstanding job, both as a Military Policeman and later as a painter, painting murals on the company walls of various subjects. You devoted many long hours and much personal effort to insure that all assigned duties were completed to the best of your ability.

You have departed this unit now for a better assignment in the civilian population. I hope that you can continue to do as good of a job for your future superiors as you have done for me. You were dependable and did your job well.. Good luck to your future and if you ever need anything from me, don't hesitate to ask.

Sincerely Yours
RICHARD H. FOX
Richard H. Fox
SFC, Platoon Sergeant