

Commonwealth of Pennsylvania



THE FOURTH DAUPHIN COUNTY INVESTIGATING GRAND JURY

IN RE: : IN THE COURT OF COMMON PLEAS OF
: DAUPHIN COUNTY, PENNSYLVANIA
:
: NO. CP-22-MD-452-2006
THE FOURTH DAUPHIN COUNTY :
INVESTIGATING GRAND JURY : **NOTICE NUMBER: 04-2006-01**

TO THE HONORABLE TODD A. HOOVER, SUPERVISING JUDGE:

PRESENTMENT NO. 4

We, the Fourth 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 - Fourth Dauphin
County Investigating Grand Jury

Certified: A True Copy

DATED: 5/9/, 2007

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Clerk of the Court

10:11 AM 6-MAY-2007

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INTRODUCTION

We, the members of the Fourth 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 04-2006-01, do hereby make the following findings of fact and recommendation of charge.

FINDINGS OF FACT

From December 12, 2003 through October 13, 2005, Nicole Elizabeth Davis was an inmate in the Dauphin County Prison. Thereafter, she was in the custody of the Pennsylvania Department of Corrections serving a sentence of 11 to 30 years for third-degree murder. During the period that Davis was an inmate at the Dauphin County Prison, Jesus Maldonado was employed as a corrections officer at that institution. Within the Dauphin County Prison, both male and female guards work in the area where female inmates are housed.

Alicia P. Moritz served a contempt of court sentence of six months of imprisonment for failure to pay child support between April 15, 2005 and October 15, 2005. Moritz served part of the sentence in the Woodside Family Center and part of the sentence within Dauphin County Prison. During part of this sentence, Moritz was housed on K Block along with Nicole Davis. On one evening, while on K Block, Moritz went to the bathroom door to enter. Upon doing so, Moritz saw Corrections Officer Jesus Maldonado sitting on a concrete bench within the bathroom. Inmate Nicole Davis was on her knees performing fellatio on Maldonado. As a result of what she saw,

Moritz did not enter the bathroom. Soon after, Moritz observed Corrections Officer Maldonado and Inmate Davis leave the bathroom.

In compliance with grand jury subpoenas, the Dauphin County Prison and the State Correctional Institutions at Muncy and Cambridge Springs provided recordings of Nicole Davis's telephone calls. The institutions recorded the telephone calls under the authority of 18 Pa. C.S. §5704. Davis frequently made collect calls to Maldonado at his home.

The conversations contained frequent allusions to a sexual relationship between the two, such as the examples that follow. During a November 12, 2005 recorded conversation, Davis and Maldonado expressed that they missed each other. During a November 25, 2005 call, Maldonado indicated that, "every time I grab my balls, I think of you, Nicki."

During a December 5, 2005 conversation, Davis thanked Maldonado for sending money. In the same conversation, Davis indicated to Maldonado that she wished she could lay beside him. During a January 30, 2006, conversation, Maldonado indicated that Davis had a big heart and "that is one of the things that attracts me to you besides that big ass."

During a March 8, 2006 conversation, Maldonado referred to rubbing "her pussy all over his face." During that same conversation, Maldonado, who was engaged with another woman, indicated that he had a ring waiting for her and referred to polygamy. Later in the same conversation, Maldonado referred to the two of them as "arm and arm, lips to lips, dick in slit." Davis responded that she needed a hug and

wished that she was at the county prison. The recordings of the conversations corroborate the testimony of Moritz.

Davis testified before the grand jury. Davis indicated that on two occasions while she was an inmate at Dauphin County Prison, she engaged in a kiss with Corrections Officer Maldonado. While Davis was an inmate of the Department of Corrections, Corrections Officer Maldonado would deposit money into her inmate account on occasion. After she was transferred to the Department of Corrections to serve her sentence, Davis listed Maldonado as an authorized visitor.

The principal investigator in the instant case is Sergeant David Hodges of the Criminal Investigation Division of the Dauphin County District Attorney's Office. Prior to her testimony, Sergeant Hodges interviewed Davis. In her testimony, Davis admitted that she falsely told Sergeant Hodges that there was nothing between her and Corrections Officer Maldonado that could be viewed as romantic. Only when Sergeant Hodges confronted her with the content of the recorded prison telephone calls, did she admit to kissing Maldonado twice within the Dauphin County Prison. During that same interview, Davis told Sergeant Hodges that she had spoken to Maldonado while an inmate of the Department of Corrections on only one occasion. In fact, Davis made 16 successful calls to Maldonado while a state inmate.

RECOMMENDATION OF CHARGES

Based upon the evidence we have obtained and considered, which establishes a prima facie case, we, the members of the Fourth Dauphin County Investigating Grand Jury, recommend that the District Attorney or his designee, institute criminal proceedings against Jesus Maldonado in connection with the above incident. Specifically, we recommend that the District Attorney or his designee charge Jesus Maldonado with institutional sexual assault, 18 Pa.C.S. §3124.2.