



TEXAS COMMISSION ON LAW ENFORCEMENT ENFORCEMENT DIVISION

CASE INFORMATION

Case Number: 18-01-0235

Investigator: Sgt. David New

Offense: Official Oppression, Texas Penal Code 39.03

Licensee: Kenneth Hayden, Constable, Montgomery County Constables Office, PCT 4

SUMMARY

In November 2018, Captain Skolaut assigned me to assist Sgt. Watts on an investigation into possible malfeasance by Constable Kenneth Hayden of the Montgomery County Constables Office, PCT 4 while affecting an arrest in December 2011. A statement was obtained by the arrestee and the investigation turned over to the Attorney General's Office.

INVESTIGATION

I spoke to Sgt. Watts about this complaint and learned that while he was investigating the Montgomery County Constables Office, PCT 4 office for Tampering with a Government Record, a new allegation arose from Captain Mark Seals. This allegation was that Constable Kenneth Hayden physically mistreated a prisoner in 2011. Evidently, the allegation was made to Montgomery County District Attorney Brett Ligon and a Texas Ranger named Derek Leitner.

The allegation was that in December of 2011, the Texas Department of Public Safety (DPS) made a traffic-stop in Montgomery County Texas. The passenger, Donald James Slaughter fled the vehicle into some nearby woods. As Slaughter hid from his pursuers, DPS called for assistance by nearby agencies. Seals (K9 handler at the time) responded with his K9 to assist in the search. Constable Kenneth "Rowdy" Hayden also responded. They tracked Slaughter to a bridge where he was found hiding. He was apprehended and Constable Hayden "dunked" the handcuffed Slaughter's head underwater several times asking where a bag was that they suspected he discarded while fleeing.

According to Watts, Montgomery County DA Ligon told him that he may need to give a statement because the information that Seals originally gave him did not match with the information Seals gave the Texas Rangers.

On 11/8/18 at approximately 2:00pm, I called Mr. Ligon and spoke to him about this incident. He explained what Seals told him and the issues surrounding this allegation. He told me that he spoke to Texas Ranger Leitner and that the version of Seals account was different than what was told to him (Ligon) and that we needed to take a statement from him. I explained that we were in the beginning



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stages of this inquiry and that the arrestee in this case would be very difficult to find. I asked Ligon if we could make a determination on his involvement pending locating Slaughter. He agreed and I told him that I would contact him if/when we find Slaughter.

A criminal history check was conducted on Slaughter and it was found that he had been arrested in the past for:

- 1 – Unauthorized Use of a Motor Vehicle
- 1 - Criminal Mischief
- 6 – Possession of Marijuana
- 4 – Possession of a Controlled Substance
- 2 – Abandoning/Endangering a Child
- 4 – Evading Arrest
- 1 – Resisting Arrest
- 1 – Tampering with Physical Evidence
- 2 – Fail to ID/Fugitive from Justice
- 5 – Unlawful Possession of Firearm by Felon
- 2 – Criminal Trespass
- 1 – Traffic Offense

It was clear he was a career criminal and therefore, would be difficult to locate. We searched for Slaughter and found several addresses in the Houston area. A search of the County and State jails was conducted with negative results. It was decided that we would travel to Houston, TX and check the addresses we found through computer checks.

On 11/12/18, Sgt. Norie, Sgt. Watts and I travelled to Houston. We checked the latest address he used at [REDACTED]. There, we met with Slaughter's ex-wife Pleadeth Slaughter. She said she had not seen him for a while but that she had his number and would try and call him. She called in front of us and he did not answer. I left my business card along with my cell number and asked her to give it to him if she saw him. She said she would. We then checked his Slaughter's mother's address. No one would answer the door and I left my business card with my contact info in the front door.

On 11/14/18 at approximately 12:00pm, I saw that I missed a call from a Houston phone number and I called it back. A man answered and said his name was Donald and that he heard I was looking for him. I explained that we wanted to talk to him about an arrest that he was involved with back in 2011. He said "you talking about the one where they dunked my head under the water?" I had not said anything to him or Pleadeth about specifics of the arrest. I asked him to tell me more about that arrest and he said "they (officers) dunked his head under water a couple of times talking about running from the bad boys of East County." I asked how long they did that and he said they held his head under water while he was handcuffed for a few seconds and he thought they were going to "kill him." He said they dunked his head 2-3 times. I asked him if we could meet with him on Monday 11/19/18. He agreed to meet us and give a statement.

I was surprised that we were able to find him and that he would meet with us given his criminal history and his relationship with law enforcement throughout his life. Additionally, I was very concerned about



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this post-arrest behavior by the officers on the scene because without prompting, Slaughter recalled the incident as "the one where they dunked his head under water."

It should be noted I retired with the Austin Police Department and worked in the Officer Involved Crimes Unit, Internal Affairs, and most recently over the Defensive Tactics and Firearms Training for all Officers. My unit taught Law Enforcement Use of Force/Response to Resistance. I have worked in a supervisory capacity where part of my duties was to review police force and response. I have testified in criminal trials about Police Force and have assisted in teaching supervisors at all levels how to review incidents where force was used by the police. I had never heard of officers dunking a handcuffed man's head under water for punishment or to elicit information.

On 11/19/18, Sgt. Watts and I travelled to Humble, Texas where we met with Donald James Slaughter, a black male born [REDACTED]. We interviewed Slaughter and his formal written statement was reviewed and signed and added to the case file. A copy was emailed to him. The entire interview was also digitally recorded and that recording was also added to the case file.

In his statement Slaughter said that he did run from the state troopers when they stopped him and his cousin in the rental car on 12/24/2011. He also said that he hid under an elevated railroad track near a bayou or river. When the officers located him, he started climbing down and as he was several feet from the ground, someone "Tased" him and when he woke up, he was handcuffed lying next to the water. He said that one of the officers put his head under water for 2-3 seconds and pulled it back out and demanded he tell them where drugs were that he threw away. Slaughter claimed there were no drugs. Slaughter said the officer dunked his head for sure 2 times and maybe a 3rd. He could not remember exactly but said that he did think he was going to drown and die. See his written statement for exact wording and detailed account.

Slaughter said that he has been arrested a lot in the past and this has never happened to him before. He also mentioned several times that one or more of the officers would say something to the effect of "Don't run from the bad boys of East County" or something about "Bad boys of East County." So much so, that he thought they were a task force of some sort that he had never heard of before. He also mentioned several officers, maybe up to 5 that may have been on the scene.

Slaughter was very calm and matter of fact. He recounted his story and did not ask for us to help him with any other pending case(s) that he may or may not have had. He did not ask for money or any favors. At the end of the interview I told him he may have to testify in front of a Grand Jury or something close to this and he did not have a problem with anything I said. The reason he did not come forward at the time is that in his words, "Montgomery County is just different." He explained that there are too many white people that aren't afraid of black people and that their jails are scary. Meaning that he felt it was what he supposed the KKK would be like. He referenced leaving the Montgomery County Jail and the guards telling him not to get caught by the railroad tracks at night or having friends be close by meaning that he may get attacked. This was not a part of the investigation into whether or not Constable Hayden forcibly put his head under water to elicit information on drugs however it did shed light on why he didn't come forward and make a complaint in 2011. We were unsure and still remain unsure if this was a convenient excuse of why he didn't come forward or if this was indeed the reason.



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We showed Slaughter a photo line-up of six driver's license photos. One of which being Constable Kenneth Hayden. He could not pick out Hayden from the line up as the one who put his head under water. The photos were obtained from a DPS analyst. I myself could not pick Hayden out of the six. He felt like one of the photos looked like the guy but could not be sure and the one he said looked like the officer that dunked his head under water, was NOT Hayden.

We ended the interview and on our way out of Humble, I asked Sgt. Watts to call Capt. Mark Seals and ask him some detailed questions about this incident. We couldn't believe that this happened the way Slaughter described. Watts asked Seals what he witnessed and Seals said "Rowdy" dunked Slaughters head under water 2 or 3 times for approximately 2-3 seconds each time. It was precisely what Slaughter had told us 30 minutes prior and these two do not know each other outside of the arrest on 12/24/2011.

We went to the Montgomery County DA's Office and met with Kelly Lester, Intake Manager. She was able to find the case in storage. She made copies of the offense report, dash-cam footage of the traffic stop and some of the charging documents. They were added to the case file.

There are no supplements from the Montgomery County Constables Office, PCT 4 on the arrest of Slaughter however Trooper Ihnen listed under "Traffic Stop/Driver Contact" # 10:

"After searching for the passenger a while, Montgomery County Constable, PCT 4 arrived on scene and deployed their K9. The K-9 lead the deputy constables to a railroad trussel where the passenger was hiding."

This supported Seals' account that MCSO, PCT 4 was there at the scene. # 11:

"The Deputy Constables advised me that they ordered him to come down but he refused, and had to be brought down. Once on the ground, the passenger resisted and ultimately had to be Tased."

Trooper Ihnen listed in #12:

"The passenger was then brought back and I began to interview him. Mr. Slaughter was totally soaked and wet and was shivering as he walked back to the car. The Deputy Constables advised that he was wet when they found him."

We called the Montgomery County Sheriff's Office dispatch and asked if they had radio traffic from a call on 12/24/2011 with DPS as the primary officer with an Evading. They advised they did have the recordings and the CAD printout. The supervisor we talked to listed several officers that were on-scene that day.