

WIDE LATITUDE GRANTED TO PRISON OFFICIALS IS IMPUDENTLY ABUSED  
by Rodrigo Gonzalez

While courts remain fully supportive of the proposition that wide discretion be allowed to prison officials in maintaining order and discipline, it should be noted too, that such wide latitude does not encompass conduct that infringes on criminal and civil law or overstep the bounds of prisoner's constitutional rights and/or protections.

Texas State prisoner Rodrigo Gonzalez's nightmare began eleven years after his intake to a prison system known as Texas Department of Criminal Justice (TDCJ). Being assigned to the C.T.Terrell Unit (formerly Ramsey III) on a hardship transfer from Palestine to Rosharon, Texas, Gonzalez never imagined to find such a high level of official abusiveness/corruption which included:

- A drugs-contraband-prostitution ring organized and led by Unit's Senior Warden and certain high rank officials that made the local news (please refer to Houston NBC channel 2 investigative reports broadcasted during the month of April, 2008);
- An internal official investigation concerning malfeasance and violations of Texas Penal Codes §§§39.02, .03, .04; Agency Policies ED-02.01, AD-03.02, AD-07.30, ED-07.29; and Federal RLUIPA 42 U.S.C. §2000cc against **Chaplain Curtis E. Robinson** that resulted in his removal from such Unit on or about March 2009; and
- A very bold and assertive criminal investigation held by Police & Sheriff Departments against Terrell Unit kitchen **Sergant Billy Joe Harris** accused of raping several elderly women that resulted in his indictment, prosecution, conviction, and subsequent sentencing to life in prison on or about July 2010.

In spite of these and other non-described negative events involving official oppression, abuse of official capacities, and violation of civil rights by more Terrell Unit staff and few administrative members towards prisoners (e.g., **Chaplain Phillip E. Crocco**), Gonzalez took the decision to disregard or ignore any experienced abuse/mistreatment towards him focusing instead in better himself by getting his official certification as the Peer Educator on charge of the 'Spanish Safe Prison & Peer Education' program in Terrell Unit.

He was doing his prison time the best he could. Everything were running nice and smooth, until December 2010, yes, holiday season. High rank official **Captain Anthony D. Houston** called Gonzalez out of his living quarters to the administration building to request from him his oral & written statement concerning a sexual (verbal) misconduct/physical assault/use of force perpetrated by prison guard **David J. Fontenot** over prisoner [REDACTED] TDCJ-ID Number [REDACTED].

As a certified Peer Educator on charge of an official spanish program specifically designed to avoid and stop the sexual abuse inside prison, it was part of Gonzalez's duties to cooperate with any related official investigation. His understanding was that his speech will fall under the penological interest of the prison system. Hence, it will constitute a protected activity under the First Amendment of the United States Constitution.

At one point, Gonzalez refused to keep cooperating, mainly due to **Fontenot's** claims to already know names and numbers of those prisoners who gave statements against him, the which Gonzalez

believed as true, due to **Fontenot** closed and friendly relationship with one of the three officials investigating and requesting statements (Gonzalez refers to female security supervisor **Lieutenant Jacqueline M. Brown**). **Fontenot** also threaten to get those prisoners in 'serious trouble', meaning, the issuance of bogus disciplinary cases.

Gonzalez spoke with **Lieutenant Brown** on December 14, 2010, 05:00 PM. She summoned him to her office, inquired him about **Fontenot's** incident with prisoner [REDACTED], and ordered him to write & sign an official TDCJ-Inmate Statement Form. He mentioned to her his fears of retaliation from prison guard **Fontenot**, but **Lieutenant Brown's** reply was, "thats your problem inmate." A few days later, on December 18, 2010, 01:00 PM, Gonzalez spoke with the third official investigator **Captain Francisco F. Rodriguez** about his fears, and **Captain's** reply was, "Gonzalez, I need your full cooperation, retaliation ain't going to happen, but if it does, we will take care of it."

Just four days later, on December 22, 2010, prison guard **Fontenot** carry out his threats and wrote Gonzalez his very first major disciplinary case in eleven long years of imprisonment. On **Fontenot** bogus disciplinary report, he accused Gonzalez of telling him 'You are no good, try me' and that Gonzalez 'slid his hand accross Gonzalez own neck' as if Gonzalez had intentions of cutting **Fontenot's** throat. By instructions of - once again - security supervisor **Lieutenant Brown**, Gonzalez was immediately removed from the general population and placed in a contaminated cell with Varicella-Zoster virus over at Pre-Hearing-Detention (PHD).

Sixteen PHD days later, on January 7, 2011, a disciplinary hearing was held by a near Unit visitor **Major J. Jackson**. During such hearing, two written testimonies from eyewitnesses revealed that at no time Gonzalez disrespected, muchless threatened prison guard **Fontenot**. However, visitor **Major Jackson** still found Gonzalez guilty despite the preponderance of Gonzalez favorable evidence, which included his own statement with a proper mention of his well documented participation and cooperation into the previous official investigation against **Fontenot**.

Disciplinary Hearing Officer **Major Jackson** wrote in the hearing report that his findings were based solely on **Fontenot's** statement, and imposed recreation/commissary restrictions, line class reduction from S3 to L1, and loss of 180 days of Good Time credits as the penalty, stating 'deter-modify behavior' as factual reasons for such severe punishment. The report also showed Gonzalez placement in Pre-Hearing-Detention building from the date of supposed incident, although, it didn't stated anything about the virus exposure Gonzalez was subjected off during his arbitrary and blatantly retaliative detention.

Subsequent step 1 & 2 grievance/appeal properly filed by Gonzalez with **Senior Warden Michael A. Roesler**, **Warden Robert G. Beard Jr.**, and **UGI Susan K. Rivas** were to no avail, even when the official investigation against **Fontenot** resulted in finding him guilty. Few months later, **Fontenot** was 'terminated' from the prison system.

In a desperate effort to fix the issue, **Captain Houston** instructed Gonzalez to contact the office of the Inspector General (OIG), which Gonzalez immediately did. Through his parents, he also

made contact with PREA Ombudsman Ralph Bales, Safe Prison Manager Lynne Sharp, TDCJ Executive Director Brad Livingston, among others. Consequently, Terrell Unit **Major Stephen P. Henson** called Gonzalez on February 27, 2011, 04:00 PM, to let him know that he was instructed to do an investigation concernig **Fontenot's** and **Brown's** retaliative behavior against him, however, just one day later, **Major Henson's** partial and sloppy investigative report showed nothing but his total unconcern to fix Gonzalez's issue.

Few months later, on Sunday June 19, 2011, Gonzalez's parents talked with Terrell Unit Senior **Warden Roesler** and respectfully requested from him a review that warrant the appropriate administrative overturn of false disciplinary case wrote by 'terminated' prison **Guard David J. Fontenot**. **Warden Roesler's** reply was, "Back then, when I look over the paperwork-grievance, I didn't saw the weight of evidence on your son's favor like I see now. I maigh have made a mistake on this, unfortunately, I can't do nothing about it now." Next day, on June 20, 2011, Gonzalez approached **Warden Roesler** and ask from him an intervention in order to clean his own disciplinary record. At the begining, **Warden Roesler** seemed to understood Gonzalez's precarious situation, but at the end, he stated that he can't do nothing about it. When Gonzalez heard that, he told him, "Sir, with all due respect, are you telling me that I need to take this issue to the courts in order to get it fix?" **Warden Roesler's** reply was, "...Gonzalez, thats how the system works."

With a great deal of sacrifice Gonzalez's parents put some money together and help him to retain the legal representation of

attorneys Brent M. Wasserstein & Louis Salmon from Houston, Texas. Attorney Wasserstein immediately arranged a legal visit with Gonzalez at Terrell Unit. The legal conference was held in the beginings of the month of September, 2011. In the prison context, legal visits are a guaranteed protected activity and constitute a fundamental part of the Access to Courts rights for prisoners. However, little did Gonzalez knew, that such legal visit will constitute also the begining of a campaign of harassment towards him by certain Terrell Unit guards whom knew beforehand two basic things: (1) Co-worker **Fontenot's** termination from the State wide Prison System, and (2) Gonzalez's well documented cooperation into the State official investigation against **Fontenot**.

Harassment intensified during the next following months of October and November, 2011. Finally, on December 7, 2011, Terrell Unit prison **Guard Angel L. Davila** came accompanied with the rank to Gonzalez's dorm to do yet one more cell-search, but now, based on a supposed anonymous note passed to the authorities. A couple of minutes later, Gonzalez was handcuffed and, once again, taken to Pre-Hearing-Detention building (PHD), but now, accused of 'possession of a weapon' supposedly sticked under his bunk.

As you might already have guessed it right, another near prison unit visitor **Captain L. Ochoa** held another disciplinary hearing finding Gonzalez guilty, and imposing the following punishment:

- Reduction of line Class from L1 to L3;
- Loss of 365 days of Good Time credits;
- No credit for Pre-Hearing-Detention time;
- Solitary confinement;
- Recreation restrictions;

- Commissary restrictions;

Subsequent collateral punishment was:

- Demotion of Custody Level status from G2 to G4;
- Transfer to a Maximum Security unit;
- Re-Demotion of Custody Level status from G4 to G5;
- Placement in Administrative Segregation (Ad Seg) Level II; and
- Contact visits restrictions.

Gonzalez's current situation is as follows: Today April 24, 2014, he was released from Ad Seg and referred to attend a 6 months program by transfer to another Maximum Security unit called Ramsey One (R1). He still have to complete successfully such program in order to get his original Custody Level of G2. In other words, it isn't over yet. In the mean time, he is writing and sharing his essay so you may know a little bit more about what does fair treatment look like in Texas State prisons, and how does his institution deal with prisoners who cooperate with official investigations, the which reflects in part the true realities of a prison system commonly called 'TDCJ'.

Would you like to know more about Gonzalez's civil rights case?  
You can write him directly at:

Rodrigo Gonzalez Jr., TDCJ 885264

Ramsey 1 Unit

1100 FM 655

Rosharon, TX 77583

You also could contact attorneys Wasserstein and Salmon at:

Law Offices of

Brent M. Wasserstein, P.C.

9898 Bissonnet, Suite 627

Houston, Texas 77036

phone (713) 723-3127

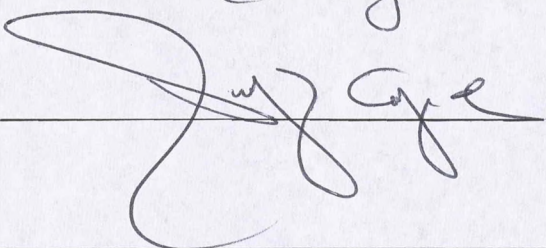
Fax (713) 723-3720

www.wassersteinlaw.com

Your comments and support letters will give Gonzalez the help and encouragement he much need to prevail in his struggle for justice.

"I, RODRIGO GONZALEZ JR. TDCJ # 885264, being presently incarcerated in the RAMSEY 1 TDCJ-ID unit, in BRAZORIA County, Texas, declare under penalty of perjury that the facts contained in the foregoing instrument are true and correct."

Executed and signed on August 18, 2014.

Signature: 

Note: Under both Federal Law (28 U.S.C. §1746), and State Law (V.T.C.A. Civil Practice & Remedies code, §132.001-132.003), inmates incarcerated in Texas may use an Unsworn Declaration under penalty of perjury in place of a written declaration, verification, certification, oath, or affidavit sworn before a Notary Public.