

Civil Rights Complaint Pursuant to 42 U.S.C. § 1983

In the United States District Court
for the Northern District of Georgia

Brian Troy Aberle
GDC #1000609561

-vs-

Clark Millsap

- I. There are no other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to this imprisonment.
- II. Administrative remedies were exhausted. Prisoner grievance forms were filed at Bartow County Jail and did not resolve the issues raised in this action.

III. Parties

Plaintiff: Brian Troy Aberle
% Smith State Prison
Hwy 301 North
1606 Downing Musgrove Hwy
Glennville, GA 30427

Defendant: Clark Millsap
Employed as Sheriff
at Bartow County

IV. Statement of Claims:

Bartow County Sheriffs Departments lack of regard for federal laws and regulations caused numerous civil rights violations. Deputies acting on the orders of Clark Millsap intentionally inflicted physical and emotional distress while I was in their custody. The cruel and inhumane treatment I suffered during pretrial detention was a malicious retaliation for accurate journalism that I published about the full extent of the crimes behind a federal conviction of the former Bartow County sheriffs captain and a senior G.B.I. investigator who maintained a desk and office at the Bartow County Sheriffs department.

#1) I was held completely naked for over 30 days. The first 18 days that I was denied clothing began on Nov 4, 2010. The room was extremely cold and I was forced to sleep on the floor with no mattress. Sgt. Mike Walters will confirm that ISO16 (formerly ISO4) is the coldest area of the jail where deputies wear insulated jackets and inmates shiver from the cold. I became sick during the last few days of my lockdown in that room.

#2) I was held in a cell with no toilet or running water for over 60 days. 30 days were in a cell called H3 and the remaining time was in ISO16 (formerly called ISO4). I had to push feces down into a drain in the floor and could not wash my hands. I often waited hours for the drain to be washed out. Most deputies had no personal animosity toward me and brought me drinking water every few hours, however, on occasion my yelling for water went ignored and I could only get a 4 ounce drink at meal time. Deputy Watson refused to allow me drinking water and often flushed the drain in the

(#2 Continued)

floor when I asked for drinking water. H3 is an intake cell designed to sober new arrests. Deputy Tucker did not approve of my long stay in the only such cell in the intake area as it was often needed for new arrests that were acting belligerent. Several such prisoners were put in H3 with me. I was denied a toilet and sink which are basic elements of hygiene and sanitation. Witnesses to my living conditions include deputy Eans, deputy Thompson, deputy Horner and many others.

#3) For over 60 days I was on dietary restrictions. Despite having no ability to wash my hands, I was on what the jail calls a fingerfood diet. I was not allowed to have a spoon or eat food from a tray or sack. I ate no fruit, vegetables, grits, oatmeal, stew, beans, or pasta during the dietary restrictions creating a nutritionally deficient diet on top of the unsanitary conditions of placing food directly in my hands through a flap in the door. Deputies Wilson, Folsom, Chester, Pearce, Hays, and several others were witness to these conditions.

#4) I was in solitary confinement on 24 hour lockdown for over 6 months. During that entire time I only came out of the cell 2 or 3 days per week for less than 10 minutes to shower. The lights were on 24 hours per day and could not be dimmed at night. Nearly every deputy in the jail was witness to this.

#5) When I was placed in general population the housing assignment was made with intent to cause injury. I was in an 8 cell dorm designed to hold 16 inmates with 2 men to each cell. Although I had never shown aggression or been charged with a violent crime, I was put into a dorm that contained only inmates who have been in 3 or more fights while in Bartow County.

(#5 continued)

Jail or had been charged with aggravated violent crimes. My cell had 4 men in it, 2 in bunks and 2 on the floor with almost no room to walk without stepping on the mattresses on the floor. It was dangerous, unsanitary, and overcrowded. With about 30 people in the dorm for a while we averaged 4 fights per week. Two of my bunkmates had Staph infections they caught in the jail, Nick Cordell and Jon Baia. My cheekbone was broken causing several teeth to still remain numb a year after the incident. I was also hit in the head with a bar of soap being swung in a sock. The blood draining down from the lump in my head caused my eyes to blacken 3 days later. Jovan Jones and Jakob Muller are witness to the incident and my injuries. Deputies Zane and Stringer both commented on my injuries that I did not bring to the attention of the staff for fear of being labeled a snitch and beat worse.

#6) I was completely forbid to send any mail for over 2 months, then for an additional 10 weeks I was not allowed to purchase any postage. During my time in ISO16/ISO4 Sgt. Mike Walters told me that Clark Millsap would not even allow me to write and send a letter with police supervision. He said this was not normal. During the additional 10 weeks in ISO14/ISO2 I was only able to send mail when I could get someone to smuggle me postage. Deputy Horner gave me 1 stamped envelope. I asked many deputies to help me as I brought my lack of mail privileges to their attention and filed numerous written grievances about the problem. Deputy Picon, deputy Eans, and Sgt. Mike Walters hand delivered the grievance forms that otherwise were lost. Due to their help, Lt. Minter finally lifted the ban on purchasing postage which lasted for a total of 10 weeks and also lifted the restriction on purchasing pens and paper which lasted for 5 months. I have copies

(#6 Continued)

of the grievances that were acknowledged by Lt. Minter. During the time I was not allowed to have pen or paper, several people smuggled them to me including deputy Duncan and inmate Ferlando Dorsey and inmate Cooley. Because I was in need of a pen, one night I took one from a desk I could reach through bars in a window inside the shower room. Deputy Folsom caught me with his pen and Lt. Ingram punished me by making me sleep on the floor with no mattress in H3. These conditions severely hindered the preparation of my defense of my case which is being prosecuted maliciously.

#7) I had extremely limited access to any legal reference books which were essential to my Pro Se defense. During much of my pre trial incarceration I was not allowed access to the legal library. Some law library requests were ignored, many times I was not even allowed to submit the requests. I did have access to the law library for 1 hour per week while housed in dorm "II", during which time I submitted several motions to the court including a "Change of Venue" in an attempt to get honest justice outside Bartow County. The books that I did briefly have access to were 10 years old and had many pages torn out and missing.

#8) Deputy Gavon Wilkins illegally seized my laptop on Nov 4, 2010 and still has not returned it. He had no warrant to seize my property and he was in Cobb County which is outside his jurisdiction. I have contacted the Bartow County Sheriff's department attempting to have my property returned. My father, Gary Aberle, has done the same. I also have the law office of Marcia Shein trying to recover my personal property.

#9) I suffer discrimination for political beliefs and I suffer for freely speaking the truth about dysfunction in the management of Bartow County. I research and document

(#9 Continued)

failure in the war on drugs. I first published on the subject in 2000, then again in a book in 2006. It was this work that brought me to Bartow County where I discovered disturbing depths of corruption.

The former Sheriff's department captain and head of the Drug Task Force was convicted for pocketing cash and reselling guns that were illegally seized during drug busts. Due to my previous work in this area I received information that the crimes were much worse and involved more people. After investigating this for 3 years I have a list of witnesses and other evidence that proves the cash amounts were understated by over \$750,000 on the indictment. Also, the largest element of the crime was not stolen cash but stolen drugs that were taken directly from drug dealers and drugs that were properly confiscated were later stolen from the police evidence locker. The drugs were resold back onto the streets mostly in Chattanooga.

I made Clark Millsap aware of my research and he has gone to great lengths to silence me rather than to expose the truth. I contacted the FBI in Atlanta and Kathryn Turman from the FBI headquarters in Washington D.C. almost a year ago about the full extent of the crimes that the FBI failed to uncover or perhaps overlooked.

Now I am at Smith State Prison, a level 5 close security disciplinary camp in Glennville, Georgia despite having no violent charges. I have witnessed 5 stabbings in 3 months and continue to suffer injustice because I have spoken the truth.

V. Relief

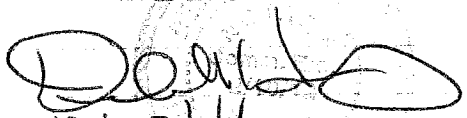
There is no monetary compensation that could ever serve justice for the barbaric abuse of power

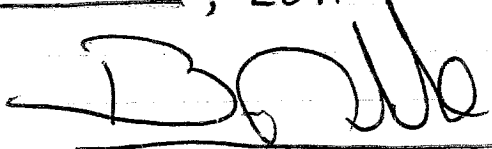
exercised by the Bartow County Sheriffs department at the orders of Clark Millsap. The United States Constitution is powerless to secure basic civil rights when authorities use their power to defend other authorities who do not honor the law.

I move the court to hold Sheriff Clark Millsap to the law and refuse to grant him exemption from criminal prosecution if the facts prove he has obstructed justice, been party to a crime, and acted as a tyrant by employing systems of torture and working contrary to constitutional laws.

Furthermore, a financial judgement punishes the tax paying community as a whole for the malicious actions of an individual and makes no guarantee that others will not continue to be victims of injustice. Bartow County jail routinely uses misclassification of inmates as a form of punishment. People will continue to be victimized unless this court orders a change of administration.

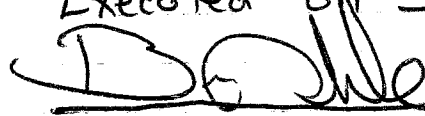
Signed this 2nd day of December, 2011


12/02/11


Signature of Plaintiff

State of Georgia
County (City) of _____

I declare under penalty of perjury that the foregoing is true and correct.

Executed on Dec 2, 2011

Signature of Plaintiff