

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE

U.S. DISTRICT COURT
GREENEVILLE TN

2008 SEP 17 P 3:3

FILED

UNITED STATES OF AMERICA)

v.)

DEXTER L. MORRIS, JR.)

No.: 2:08-MJ- 176

CRIMINAL COMPLAINT

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief.

COUNT ONE

On or about the 24th day of August, 2005, in the Eastern District of Tennessee, the defendant, DEXTER L. MORRIS, JR., while acting under color of law, did willfully deprive the woman "JL" of rights, privileges, and immunities secured and protected by the Constitution and laws of the United States, to wit, the sexual abuse of "JL", thereby willfully depriving her of the right to be secure against unreasonable seizures and the right to bodily integrity protected by the Fourth and Fourteenth Amendments to the United States Constitution, such acts constituting aggravated sexual abuse, in violation of Title 18, United States Code, Sections 242 and 2.

COUNT TWO

On or about the 18th day of September, 2005, in the Eastern District of Tennessee, the defendant, DEXTER L. MORRIS, JR., while acting under color of law, did willfully deprive the woman "NE" of rights, privileges, and immunities secured and protected by the Constitution and laws of the United States, to wit, the sexual abuse of "NE" by requiring her to perform an indecent act, thereby willfully depriving her of the right to be secure against unreasonable seizures and the right to bodily integrity protected by the Fourth and Fourteenth Amendments to the United States

Constitution, in violation of Title 18, United States Code, Sections 242 and 2.

COUNT THREE

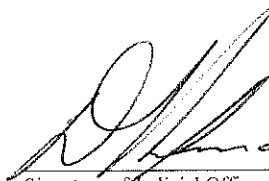
On or about the 18th day of April, 2007, in the Eastern District of Tennessee, the defendant, DEXTER L. MORRIS, JR., in a matter within the jurisdiction of the Federal Bureau of Investigation, an agency of the United States, did knowingly and willfully make a false, fraudulent, and fictitious material statement and representation; that is in an interview with special agents of the Federal Bureau of Investigation, the defendant stated that he could not recall whether he had ever had sexual contact with any woman he encountered during a traffic stop, which the defendant then well knew to be false, in violation of Title 18, United States Code, Section 1001.



LANE P. RUSHING
Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

September 17, 2008
Greeneville, Tennessee.



Signature of Judicial Officer
HONORABLE DENNIS H. INMAN
United States Magistrate Judge

AFFIDAVIT

STATE OF TENNESSEE)
)
COUNTY OF GREENE)

Your affiant, being duly sworn, states the following:

1. Your affiant is Lane P. Rushing, a Special Agent with the Federal Bureau of Investigation assigned to the Knoxville Division, Johnson City Resident Agency.

2. This affidavit is based upon information personally known to me as detailed herein, both from my own investigation and from information provided to me from other law enforcement officers and witnesses.

Statutory violations

3. Title 18, United States Code, § 242 provides, in pertinent part:

Whoever, under color of any law . . . willfully subjects any person in any state, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States . . . shall be [punished].

The Supreme Court has defined action taken under color of law as "[m]isuse of power, possessed by virtue of state [or federal] law and made possible only because the wrongdoer is clothed with the authority of [that] law." *United States v. Classic*, 313 U.S. 299, 326 (1941). *see also Hafer v. Melo*, 502 U.S. 21, 28 (1991) (explaining color of law requirement was designed to enforce Fourteenth Amendment "against those who carry a badge of authority of a State and represent it in some capacity, whether they act in accordance with their authority or misuse it").

4. Section 242 is not, in itself, a source of any substantive rights. Instead, it serves as a vehicle for punishing violations of rights already "made specific either by the express terms of the Constitution or laws of the United States or by decisions interpreting them." *Screws v. United States*, 325 U.S. 91, 104 (1945). The Fourth Amendment prohibits "unreasonable searches and seizures."

U.S. Const. amend. IV. The Fourth Amendment is made applicable to the states through the due process clause of the Fourteenth Amendment. *Mapp v. Ohio*, 367 U.S. 643, 655 (1961). Sexual assaults by police officers of persons who they have arrested or detained constitute both an unreasonable seizure in violation of the Fourth Amendment, and, for state and local officers, a violation of the right to bodily integrity protected by the due process clause of the Fourteenth Amendment. *See, e.g. United States v. Dillon*, --- F.3d ----, 2008 WL 2469408 (5th Cir. Jun. 20, 2008)(sexual assaults by asst. city attorney deprived victims of right to bodily integrity); *United States v. Giordano*, 442 F.3d 30, 47 (2d Cir. 2006)(right to bodily integrity protected by Fourteenth Amendment against sexual assault by state actor). *But see Fontana v. Haskin*, 262 F.3d 871, 881 (9th Cir. 2001) (holding that "[the plaintiff's] claim, although a possible fit under the Fourteenth Amendment, is better seen as a Fourth Amendment claim because she had been seized by the police.").

5. Title 18, United States Code, § 1001 provides in pertinent part:

Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully - . . . makes any materially false, fictitious, or fraudulent statement or representation; . . . shall be [punished]

18 U.S.C. § 1001. "A violation of 18 U.S.C. § 1001 for the making of a false statement or representation requires: (1) the making of a statement; (2) the falsity of such statement; (3) knowledge of the falsity of such statement; (4) relevance of such statement to the functioning of a federal department or agency; and (5) that the false statement was material." *United States v. Hixon*, 987 F.2d 1261 (6th Cir. 1993). A person who makes a false statement to a federal agent in the course of a criminal investigation violates the false statements statute. *United States v. Rodgers*, 466

U.S. 475 (1984). False claims of a lapse of memory, that is, a person's claim that they do not remember an event when they in fact do, can constitute a violation. See, e.g. *United States v. Ponticelli*, 622 F.2d 985 (9th Cir. 1980)(perjury); *Gebhard v. United States*, 422 F.2d 281, 287-88 (9th Cir. 1970) (same).

The Defendant

6. Dexter L. Morris, Jr. was hired by the Hamblen County Sheriff's Office (HCSO) in May 2002 as a jailer. Morris worked as a jailer until he was promoted to be a patrol officer in October 2003. In February 2004, Morris entered the Walters State Community College's police academy in Greeneville, Tennessee, and graduated from that program in April 2004. Morris resigned from the HCSO in April 27, 2007.

Previous Misconduct

7. In August 2004, the Federal Bureau of Investigation opened an investigation into an allegation by a woman hereinafter referred to as "RL" that Morris had sexually assaulted her while she was an inmate at the Hamblen County Detention Center (HCDC). RL reported that Morris had made sexually suggestive remarks about her breasts in August 2003, and, a few days later, Morris demanded that RL lift her shirt and show him her breasts. When RL resisted, Morris told her that he could make it hard on her. Morris then touched RL's breasts underneath her shirt and brassiere. Finally, RL reported that on August 25, 2003, Morris called RL out purportedly to check her blood sugar. After taking RL back to the jail kitchen (an area known by the jailers and inmates not to have surveillance cameras at that time), Morris put his hand into RL's shorts and digitally penetrated her vagina for three to four minutes. RL complained and provided a written statement to HCSO investigators on August 27, 2003. Morris was briefly questioned and denied that anything had

happened.

The Sexual Assault Of "JL"

8. On August 24, 2005, a woman, hereinafter referred to by the initials "JL," was out with a friend in JL's pickup truck when, while on Old Kentucky Road in Hamblen County, JL saw a police cruiser with black and white markings (a HCSO patrol car) pull onto the highway in front of her. After a short while, JL noticed the cruiser had somehow gotten behind her. The cruiser followed her for what seemed to her to be an unusually long time and then she saw the emergency lights activated.

9. The lone officer in the patrol car approached JL's truck and asked her for her license, registration and proof of insurance, and JL provided the documents as requested. The friend, who was in the passenger seat, had drunk several beers while riding with JL and had kept the beer cans in a bag at his feet. JL believes the officer heard the cans rattle, and the officer eventually directed her to get out of the truck.

10. The officer (later identified as defendant Dexter Morris) moved JL to the rear of her truck where she was out of her friend's sight. After questioning JL, Morris directed her to pull her bra away from her body and shake her chest, purportedly as a part of a search for contraband. JL was required to do this several times. Morris then spoke to the passenger in the truck. Morris returned to the rear of the truck where he again directed JL to pull her bra away from her body and shake her chest.

11. Morris asked JL if there were any drugs in the vehicle and JL admitted that there was a small amount of marijuana in the vehicle. Morris advised he was going to search the truck and directed the passenger out of the truck and to the back seat of the patrol car. The friend reported

hearing Morris contact the dispatcher at one point to ask about the address which the friend had provided. Because of the lights of the patrol car, JL could not see her friend once he was directed to the patrol car.

12. JL indicated that it seemed like she sat on the tailgate for a long time. Eventually, Morris told JL that she was in trouble and that she would go to jail for possessing marijuana. Morris also asked JL where she worked and told her she would be losing her job. Morris then told JL that he had to take another call. Morris told JL to drive up the street and wait for him there. JL asked Morris about her friend and learned that Morris had released the friend without her knowledge and had directed him to walk home on foot. At this point, JL became more frightened, but followed Morris' instructions, in part because he still had her driver's license and in part because Morris had threatened to come to her residence and arrest her if she did not comply. Morris also threatened to call JL's employer and that she would lose her job.

13. JL drove her truck to the parking lot of a nearby church as directed. Morris returned in his patrol car and directed her to drive into a nearby cemetery. Morris led the way, came to a stop, and got out of his patrol car. JL stopped her truck next to the patrol car and got out.

14. Morris had removed his gun belt, and he instructed JL to touch his pants in the genital area. JL did as instructed. Morris then ordered JL to get in the back seat of the patrol car and he began to engage in sexual conduct with her, to include sexual intercourse and ordering JL to perform oral sex on him. JL then heard a radio call; Morris stopped the intercourse and answered the radio call. JL heard some part of the call regarding a telephone call from someone's sister [JL's friend had called the HCSO in an effort to learn what had happened to JL; the friend also called JL's sister, who also called the HCSO]. Morris told the dispatcher something about JL being okay and that he had

been “good.”

15. Morris then finished the radio call and returned to JL. Morris put on a condom and resumed sexual intercourse. Morris then got dressed and allowed JL to leave.

16. JL immediately called her sister to tell her she was okay and on her way home. JL could not recall speaking with anyone about the incident shortly after it happened. However, she realized the event was causing her to have emotional problems, and she broached the matter with her best friend. The friend reminded JL that JL had saved the clothing she was wearing, clothing which was eventually turned over to the FBI for examination. JL reported she was afraid to come forward regarding the sexual assault. She eventually contacted a local attorney in early 2007, who contacted the FBI on her behalf.

Indecent Acts With “NE”

17. A third woman, hereinafter referred to as “NE,” reported that sometime in late 2005 or early 2006, NE had been driving with her boyfriend in the early morning hours in a car belonging to a friend. NE was stopped by a HCSO deputy, later identified as Morris. Morris decided that NE should be charged with child endangerment because her son was in the back seat without a car seat and also that there was a local probation violation warrant outstanding. Another person, wearing plain clothes and with a badge, was in the patrol car with Morris.

18. Morris directed the boyfriend to ride with the other officer in the patrol car to the couple’s residence to retrieve a car seat. After the patrol car had left, Morris began “searching” NE again. Morris had NE pull her bra away from her body purportedly to expose hidden items; Morris also had NE turn around several times and he patted her down with extraordinary attention to her buttocks.

19. Upon the boyfriend's return, NE was taken into custody and the boyfriend left with the automobile and the children. NE was familiar with arrest processing at the HCSO, but this time she was directed by Morris to a private room while Morris completed paperwork.

20. While they were in the private room, Morris stopped working on the paperwork and told NE she had an option - he would not charge her with the car seat violation if she would expose her breasts for him. NE reported that she felt she had no choice and raised her shirt.

21. Morris left the room and NE was eventually released with a new court date for her violation of probation hearing. While waiting for a ride home, Morris again approached NE and questioned her about her living arrangements and work schedule, leading NE to believe that Morris was asking these personal questions in order to possibly approach her at home. NE reported that a HCSO patrol car did appear in her driveway sometime after that, but NE was not able to identify the driver.

22. Records of the Hamblen County Sheriff's Office reflect that NE was arrested by Morris on September 18, 2005 for a violation of probation after a traffic stop. NE was not charged with any traffic offenses.

False Statements

23. Morris was interviewed by FBI special agents on April 18, 2007 at the Tennessee Highway Patrol Criminal Investigation Division (THP-CID) office in Morristown. Morris was advised that he was under no obligation to answer any questions and that he was free to leave at any time. Morris also retained possession of his sidearm and Taser during the interview.

24. Morris was advised of the nature of the interview, specifically, that a complaint had been received accusing Morris of conducting a traffic stop, finding the woman driver to be in possession

of marijuana, and then using the offense to coerce the woman to engage in sexual activity. To refresh his memory, Morris was advised of information concerning the traffic stop, including the date, time, location, and name of the passenger in the vehicle. Morris was also advised that the victim had provided to the FBI clothing that she had been wearing and sex toys used during the incident. Morris was told these items could be processed for DNA.

25. Morris said he would never offer or attempt to trade an agreement not to arrest a person in exchange for sexual favors. Morris said he “could not say” he never had sex with any woman he encountered in a traffic stop. Morris’ only response to repeated questions regarding such an event was that he “could not recall” such an event.

26. In response to being told his car number was identified by the woman making the allegations, Morris claimed that another deputy sheriff used his patrol car on occasions.

Laboratory Analysis

27. I took custody of a black plastic garbage bag from JL on February 9, 2007. The bag contained other bags which contained, among other things, a sex toy, two pairs of women’s underpants, a shirt, and a pair of shorts.

28. On April 26, 2007, I, with the assistance of a nurse, collected samples of bodily fluids from Morris pursuant to a federal search warrant. On May 11, 2007, I, with the assistance of a nurse, collected samples of bodily fluids from JL and the friend who had been with her on August 24, 2005. The samples, along with the clothing and other items provided by JL, were submitted to the FBI Laboratory for analysis.

29. The FBI Laboratory reported in August 2008 that semen had been found on the panties and shorts. Analysis indicated that DNA in the semen matched Morris’ DNA and that only 1 in 110

billion persons in the Caucasian population would have DNA that matched that extracted from the semen.



LANE P. RUSHING
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to and returned before me this 17th day of September, 2008.



DENNIS H. INMAN
United States Magistrate Judge