
A COLLECTION OF 5 ARTICLES RELATED TO
THE AUGUST, 2006, IN-CUSTODY DEATH OF
MARK D. McCULLAUGH, Jr

[Yellow Highlight by C.D. Miller]

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WRONGFUL DEATH RELATED INJURY

5 Deputies held accountable in jail death

October 1, 2007

Akron, OH - 5 deputies will be arraigned on Tuesday in connection with the death of an inmate. They have all been suspended without pay as a result of the incident.

One of them faces 15 years to life if found guilty of murdering the inmate in 2006. Two face charges of reckless homicide, and two others were indicted for felonious assault.

The indictments came through on Friday in a Summit County courtroom. The five Summit County sheriff's deputies were indicted by a county grand jury in the death of a jail inmate last year.

Mark D. McCullaugh Jr., 28, of Akron, died Aug. 20, 2006, after a struggle at the jail. The county Medical Examiner's Office ruled his death a homicide after an autopsy showed the 6-foot-2, 306-pound man died of asphyxiation from multiple forms of restraint and blows.

The investigation, which is standard procedure in deaths while in custody, lasted a year before coming to a close. The testimony in the court this week took place over four days in front of the grand jury.

Indicted were Stephen Krendick, first-degree murder; Brett Hadley and Brian Pollinger, third-degree reckless homicide; and Mark Mayer and Dominic Martucci, second-degree felonious assault.

If found guilty, Krendick could face 15 years to life in prison.

According to the chief counsel for the sheriff's office, the deputies have all been suspended without pay. They are not being held in custody, but they have agreed to turn themselves back in on Monday.

The state Bureau of Criminal Identification and Investigation apparently asked the matter to be handled in this manner.

BCI officials could not be reached for comment on why someone charged with murder would not be taken into custody immediately.

The arraignment will take place on Tuesday morning at 10 a.m. in Common Pleas Court. The judge overseeing it will be Judge H.F. Inderlied.

At this time, it is not known how long the deputies have been employed by the county. Limited information is being released at this time due to the fact that the men are not being held in custody.

A news conference is expected to take place on Monday to address any further questions.

The sheriff's office was brief in their response to questions of how they are reacting to the incidents. They simply state that they will be handling the issue in a professional manner and that they will continue to serve and protect the community.

The indictments were announced by the Cuyahoga County Prosecutor's Office, which handled the grand jury proceedings. The Ohio Attorney General's Office oversaw the criminal investigation.

As of now, it has not been stated whether any other indictments are being sought.

McCullaugh had been arrested by Akron police on Aug. 7 on charges of felony assault, resisting arrest and disorderly conduct.

According to authorities, the man had been placed in the jail's mental health unit and he had gotten into an altercation with at least five deputies. They were able to subdue him enough to place him in handcuffs and leg restraints.

He was given a shot to calm him down, but he had also been Tasered by the deputies.

Later, a deputy checking on him discovered he was not breathing. He was taken to Akron General Medical Center, where he was pronounced dead.

The lawsuit against the deputies was filed by McCullaugh's parents, who believe that their son was beaten. They filed a wrongful death lawsuit last month in federal court against 13 deputies and medical and psychiatric personnel.

Currently, the suit is asking for \$75,000 in damages.

The mother of the victim stated that she was happy that the grand jury decided to indict the five Summit County sheriff's deputies.



Judge quashes references to 'death by taser'

By Sharon Danann

Akron, Ohio

Published May 10, 2008 6:57 AM

On May 2, visiting Judge Ted Schneiderman ruled that Summit County Medical Examiner Lisa Kohler must change death certificates and autopsy reports on three men to delete any reference suggesting that Tasers contributed to their deaths. In each case, the judge had

specific wording that he ordered the medical examiner to remove from the documents, with the requirement to substitute the words "accidental" or "undetermined" as cause of death.

A Taser is a stun-gun that delivers an electric shock with the usual goal of incapacitating the human being it hits.

In the case of Mark D. McCullaugh Jr., who died as an inmate in the Summit County jail in August 2007, the order requires Kohler to delete the words "homicide" due to "multiple restraint mechanisms with beating and anal penetration," as well as any reference to death by "asphyxia due to the combined effects of chemical, mechanical and electrical restraint" from McCullaugh's death certificate and autopsy report.

Five deputies face charges for McCullaugh's death. Deputy Stephen Kendrick is charged with murder, the most serious of the charges, and goes to trial on June 16.

Judge Schneiderman's decision also puts forward an alternative explanation for cause of death for Dennis S. Hyde and Richard Holcomb: "excited delirium syndrome" or "agitated delirium." These are terms that do not appear in medical manuals, but have been pushed by Taser's advocates to describe deaths of people who become so agitated by drugs or mental illness that their bodies develop fatal cardiac arrhythmia during struggles with police. Taser funds research on excited delirium.

Hyde died in 2005 after three officers used Tasers on him. Holcomb died in 2005 after being shot four times with a Taser. Both men were on methamphetamines at the time. (Plain Dealer, May 3)

On Hyde's and Holcomb's documents, the medical examiner is being ordered to remove any reference to "homicide" or "contributing factor of electrical pulse incapacitation" and substitute the word "accidental."

Since 1999, more than 300 people have died in North America following police use of Tasers. Medical examiners cited the stun gun directly or included it as a factor in almost 10 percent of the cases, according to an investigation by The Arizona Republic. (May 2)

The ruling was in response to a suit brought by Taser International Inc., joined by the City of Akron, against Dr. Kohler. The company has sued other coroners, demanded judicial review of autopsy reports and asked coroners to reverse opinions.

Kohler states that she received an abundance of information from Taser, all with the objective to prove her rulings wrong.

Taser spokesman Steve Tuttle, who was pleased with the Summit County ruling, stated, "We will hold people accountable and responsible for untrue statements. If that includes medical examiners, it includes medical examiners." (Arizona Republic, May 2) According to Taser, more than 60 cases against the company have been dismissed. Others, however, are pending.

Dr. Bruce Levy, Tennessee's chief medical examiner, expressed shock at the Summit County ruling. "Judges should not be practicing medicine, and that is clearly what the judge is trying to do in this case," he stated. "I, for one, would never sign my name to reports that I did not write myself, or agree with myself. And that is literally what the judge is asking Dr. Kohler to do, which is to change her report and sign her name to something she, in her professional opinion, does not believe." (Akron Beacon Journal, May 3)

John Manley, of the prosecutor's office who represented Kohler, said, "Taser is quite a force to be reckoned with and does everything to protect their golden egg, which is the Model X26." (Associated Press, May 3) Taser's net worth leapt from \$19 million in 2006 to \$49 million in 2007.

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Wounds in jail death graphically described

Medical expert who performed autopsy shows series of photos at Summit deputy's murder trial

By Ed Meyer

Beacon Journal staff writer

Published on Wednesday, Jul 30, 2008

Summit County Jail inmate Mark D. McCullaugh Jr. suffered multiple anal injuries during his fatal 2006 struggle with sheriff's deputies from "an object that has to be rigid and unforgiving," a medical examiner's official said Tuesday.

Demonstrating the injuries in a series of graphic autopsy photos — each magnifying the area of the injuries — the forensic pathologist who performed the autopsy on McCullaugh said there were three specific areas of impact into and against the anal sphincter muscle.

"The anal blood vessels are crushed and leaking blood into the tissues," Chief Deputy Medical Examiner George C. Sterbenz said as he narrated the photos with a red laser pointer.

His testimony marked the first time that a medical examiner's official explained McCullaugh's anal injuries in detail, and it came after Sterbenz had been on the witness stand for more than five hours over two days in the trial of Deputy Stephen Krendick.

Before court adjourned for the day, defense lawyers for Krendick began their cross-examination of Sterbenz, but did not ask any questions about the alleged anal injuries.

Krendick, 35, is charged with one count of murder for the death of McCullaugh on Aug. 20, 2006, after a violent struggle in the inmate's cell in the jail's mental health unit.

Four other deputies indicted in connection with the case are scheduled to go to trial later this year.

Sterbenz did not identify the rigid object that he said caused the anal injuries, but in questioning by Assistant Cuyahoga County Prosecutor John R. Kosko, Sterbenz did say that "these were foreign-body, sodomy-type injuries."

Defense lawyer James M. Kersey objected to the term sodomy, and after a conference at the bench with all of the lawyers, Judge Herman F. Inderlied Jr. ordered the term to be stricken from the court record.

Causes of death

In testimony that backed up previous Summit County autopsy findings, Sterbenz concluded his time on the stand for the state by describing the causes of McCullaugh's death.

Sterbenz said McCullaugh died from asphyxia resulting from the combined effects of chemical, electrical and mechanical restraints.

McCullaugh, who was shackled in a hogtied position, choked to death within "minutes" of being sprayed with "a large amount" of pepper spray, Sterbenz said.

Using his autopsy photos, Sterbenz also pointed out 10 distinct marks on McCullaugh's back from what he said were Taser stun-gun barbs.

In Monday's opening statements, Kosko said Krendick used an entire 16-ounce can of pepper spray, shooting it into McCullaugh's cell through an open flap in the cell door while McCullaugh was naked and restrained.

Kosko said the 16-ounce can, previously described in court records as the "Sergeant's can," was the type used by deputies on numerous people in riot situations.

Krendick asked Sgt. Brett Hadley for the can after the initial confrontation with McCullaugh, and Hadley turned it over, Kosko said.

Hadley and Deputy Brian Polinger — identified by Kosko as the one who opened the cell door flap in the moments before McCullaugh was hit with the pepper spray — were indicted for reckless homicide.

The other deputies, Dominic Martucci and Mark Mayer, were indicted for felonious assault.

In their first chance to question Sterbenz, Krendick's defense team began with Akron attorney Robert C. Baker spending much of the afternoon on McCullaugh's background of psychological problems and the possible life-threatening effects of a "drug cocktail" that he received from a jail nurse.

The purpose of the drug cocktail — separate injections of Geodon and Ativan apparently given to McCullaugh before he was pepper-sprayed — was to calm him down, Sterbenz said.

But when Baker tried to question Sterbenz about whether the drugs and the stress from the jail-cell struggle could have caused sudden cardiac death, Sterbenz answered quickly.

"The real issue here in terms of life-threatening [injuries]," Sterbenz said, "is the inhalation" of fumes from "large amounts" of the pepper spray.

Fumes from the pepper spray, he said, caused "severe airway burns."

Other factors

Krendick's other lawyer, James M. Kersey of Cleveland, contended in opening statements that a combination of heart disease and a condition known as excited delirium caused McCullaugh's death.

And on that issue, Baker followed up with Sterbenz and appeared to create the first hole in the prosecution's allegations about the cause of death.

Revealing the intricacies of his autopsy, Sterbenz said McCullaugh had a "significantly enlarged heart" weighing 570 grams.

Such a condition, combined with high blood pressure and blockages in the three main coronary arteries, which McCullaugh also had, could "place someone in danger of sudden cardiac death," Sterbenz said.

But Sterbenz also pointed out that his autopsy report listed heart disease as a "contributing factor" in the death.

The trial, entering its third day, is being conducted before Inderlied without a jury. The prosecution is expected to call jail medical personnel in the next round of witnesses.

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The logo for Ohio.com, featuring the word "Ohio" in a large, bold, black font with a red dot for the letter 'o', followed by ".com" in a smaller, black font.

<http://www.ohio.com/news/26380614.html>

Prosecution didn't prove inmate died of asphyxia, judge says

By Ed Meyer

Beacon Journal staff writer

POSTED: 01:05 p.m. EDT, Aug 07, 2008

Prosecutors failed to prove that Mark D. McCullaugh Jr., 28, died from asphyxia after his 2006 struggle with Summit County sheriff's deputies at the county jail, a judge ruled.

Deputy Stephen Krendick, 35, was found not guilty of one count of murder on Wednesday by visiting Judge Herman F. Inderlied Jr., who heard the case in Summit County Common Pleas Court without a jury.

In a decision posted in the clerk's office at 10:51 this morning, Inderlied made public the reasoning behind his verdict.

The two-page written decision stated: "The state failed to prove beyond a reasonable doubt that any conduct of the defendant, Stephen Krendick, caused the death of Mark D. McCullaugh, knowingly or otherwise. More specifically, the state failed to prove that Mark D. McCullaugh died from asphyxia as opined by Dr. Sterbenz and Dr. Levy.

"It is more likely," the decision stated, "that Mark D. McCullaugh died from sudden cardiac death following his struggle with Summit County deputies and due to the adverse impact of that struggle on his pre-existing severe arteriosclerotic cardiovascular disease prior to the use of drugs or the use of [pepper] spray by the defendant."

Arteriosclerotic cardiovascular disease is a medical term for hardening and thickening of the walls of the coronary arteries.

George C. Sterbenz, the county's chief deputy medical examiner, testified during Krendick's eight-day trial that McCullaugh died of asphyxiation from the combined effects of chemical, electrical and chemical restraints on his airways.

The findings of Sterbenz's autopsy were corroborated during the trial by the testimony of a second forensic pathologist, Dr. Bruce Levy, the chief medical examiner of the state of Tennessee.

However, the defense presented two forensic pathology experts of their own — Werner U. Spitz, a former chief medical examiner in Wayne County in Michigan, and Michael Graham, chief medical examiner for the city of St. Louis.

Spitz and Graham both testified that McCullaugh, who was 6-foot-2 and 290 pounds, according to the autopsy findings, had severe heart disease and died of sudden cardiac arrest from the stress of his struggle with deputies.

Inderlied's decision went on to say that the struggle "was precipitated by Mark D. McCullaugh due to his well-documented mental illness."

Inderlied also said in the decision that he "makes no findings with regard to the conduct of any person(s) other than the defendant, Stephen Krendick."

Four other Summit County sheriff's deputies were indicted in connection with McCullaugh's death. They are scheduled to go to trial before Inderlied later this year.

Prosecutors were not immediately available for comment on the decision.

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<http://www.correctionsone.com/news/1724565/>

August 08, 2008 -

Ohio deputy acquitted in inmate death

Judge doubts cause of death in Ohio county jail case; asphyxia in cell not proved

By Ed Meyer
Akron Beacon Journal

AKRON, Ohio — Prosecutors failed to prove that Mark D. McCullaugh Jr. died from asphyxiation after his 2006 struggle with Summit County sheriff's deputies at the county jail, a judge said.

Deputy Stephen Krendick, 35, was found not guilty of one count of murder by visiting Judge Herman F. Inderlied Jr., who heard the case in Summit County Common Pleas Court without a jury.

Inderlied announced the verdict at 4 p.m. Wednesday after a three-hour recess following closing arguments. He left the bench immediately afterward.

The judge made public the reasoning behind his decision in a two-page court entry filed in the county clerk's office at 10:51 a.m. Thursday.

It stated: "The state failed to prove beyond a reasonable doubt that any conduct of the defendant, Stephen Krendick, caused the death of Mark D. McCullaugh, knowingly or otherwise. More specifically, the state failed to prove that Mark D. McCullaugh died from asphyxia as opined by Dr. Sterbenz and Dr. Levy."

Ryan Miday, a spokesman for Cuyahoga County Prosecutor Bill Mason, said Inderlied did not inform the two assistant county prosecutors who handled the case — John R. Kosko and Brian M. McDonough — that lesser charges were considered.

But Kosko and McDonough both interpreted the decision's reference to "any conduct" as an indication that Inderlied did consider lesser charges, Miday said.

In pretrial records, Kosko wrote that "the facts may support the consideration of involuntary manslaughter or reckless homicide as lesser included offenses of murder."

Inderlied's decision went on to say: "It is more likely that Mark D. McCullaugh died from sudden cardiac death following his struggle with Summit County deputies and due to the adverse impact of that struggle on his pre-existing severe arteriosclerotic cardiovascular disease prior to the use of drugs or the use of [pepper] spray by the defendant."

Arteriosclerotic cardiovascular disease is a medical term for hardening and thickening of the walls of the coronary arteries.

Defense's argument

Defense attorney James M. Kersey, in his closing argument, said McCullaugh's bad heart resulted in a fatal "haywire heartbeat" from the stress of the struggle.

There was no evidence McCullaugh's airways were obstructed and, therefore, he could not have died from asphyxiation, Kersey argued.

But George C. Sterbenz, the county's chief deputy medical examiner, testified during the eight-day trial that McCullaugh died of asphyxiation from the combined effects of chemical, electrical and mechanical restraints on his airways.

McCullaugh, 28, was pronounced dead at Akron General Medical Center at 7:46 p.m. Aug. 20, 2006 — one hour and 15 minutes after the beginning of the struggle in his 11-by-7-foot cell in the jail's mental health unit, prosecutors contended.

According to testimony, McCullaugh's hands were cuffed behind his back, his legs were shackled and he was injected by jail nurses with a drug cocktail in a further effort to calm him.

One of those nurses, Denise Walsh, testified that McCullaugh's leg shackles were attached, in turn, to a bull ring in the cell floor.

With the cell door closed, Krendick then shot McCullaugh through a flap in the door with a 16-ounce can of pepper spray.

Moments before, deputy Adam Crolley testified that he heard Krendick saying he was "going to let him cook."

Sterbenz testified that the fatal injury — severe burns to the windpipe from inhaling the pepper spray — caused McCullaugh to choke to death within minutes.

Those findings were corroborated by testimony from a second forensic pathologist, Dr. Bruce Levy, chief medical examiner of the state of Tennessee. Levy reviewed Sterbenz's findings and agreed with asphyxiation as the principal factor in the death.

The defense, however, presented two forensic pathology experts of its own — Werner U. Spitz, a former chief medical examiner in Wayne County in Michigan, and Michael Graham, chief medical examiner for the city of St. Louis.

Spitz and Graham both testified that McCullaugh, who was 6-foot-2 and 290 pounds, according to the autopsy, had severe heart disease and died of a rapidly accelerated heartbeat from the stress of his violent struggle with the deputies.

Spitz, 81, who testified in the congressional investigations into the assassinations of President John F. Kennedy and Dr. Martin Luther King Jr., concluded from his review of the Sterbenz autopsy that McCullaugh's death was from "natural causes."

Spitz testified that he found no obstruction in McCullaugh's windpipe, nor any evidence of swelling — a sign of restricted airflow — in that area.

Graham testified that he, too, reviewed Sterbenz's autopsy and found the evidence showed McCullaugh died from a condition he called "schizophrenia-induced excited delirium," with heart disease as a contributing factor.

Excited delirium is a legal term for sudden death from an accelerated heartbeat in cases of suspects who resist being taken into custody.

Mental illness cited

Inderlied also said in his decision that the struggle "was precipitated by Mark D. McCullaugh due to his well-documented mental illness."

Krendick did not testify, but on Wednesday morning when the defense wrapped up its case, five Akron police officers testified that they were involved in bizarre incidents with McCullaugh in the weeks leading up to his death.

In one incident, McCullaugh head-butted an officer. In the other, he kicked a paramedic in the chest, the officers said.

Inderlied also said in his decision that he made "no findings with regard to the conduct of any person(s) other than the defendant, Stephen Krendick."

Four other sheriff's deputies were indicted in the case. They are scheduled to go to trial before Inderlied later this year.

After the verdict, Jennifer L. Fox, McCullaugh's mother, left the courtroom in tears. Jonathan Stock, of Medina, said his mother was too distraught to comment on the verdict.

Sheriff Drew Alexander, meanwhile, said Krendick will be back on the job "when he's ready."

Alexander extended his condolences to McCullaugh's family, but also said he was "happy for the sheriff's office."

"The agency's been under a lot of scrutiny for the last two years, and I felt two years ago as I do now," he said. "My deputies acted appropriately."

"They did not go into that cell to kill that man. They went in to that cell to subdue him and stop him from hurting himself, and this is the end result."

Inderlied handled the case under appointment by the Ohio Supreme Court.

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