

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JONATHAN MARCUS GREEN, PETITIONER,	x	
	x	
V.	x	
RICK THALER, DIRECTOR TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION, RESPONDENT.	x x x x	4:07-cv-00827

STATEMENT OF THOMAS BARTLETT WHITAKER

My name is Thomas Bartlett Whitaker. I am incarcerated on death row, which is located near Livingston, Texas, in the Polunsky Unit of the Texas Department of Criminal Justice. I have completed high school, and was admitted to and attended Baylor University in Waco. I received my BA from Adams State University in Colorado, and am about to begin working on my MA at California State University.

During my studies, I have taken courses on psychology, neuroscience, sociology, and social psychology. While I am by no means an expert on mental illness, I have studied the subject to an extent that is beyond that of the average citizen. I have taken both a personal and an academic interest in the conditions of death row, and I am familiar with much of the literature dealing with the effects of long-term solitary confinement on mental disease. I have lived in close proximity to death row inmates suffering from severe mental illness, including but not limited to: Scott Panetti, Steven Staley, Syed Rabbani, and Edgardo Cubas, and as a result I have been able to observe the type of mental health care - or lack thereof - given to these individuals in the prison system.

I have also lived in cells immediately adjacent to that of Jonathan Marcus Green on two occasions. From roughly the 15th of June, 2010 to the 14th of March, 2011, I lived in 12DD-46, and Mr Green was my neighbor in 12DD-45. If I recall correctly, Mr Green was taken to Montgomery County for a hearing towards the end of June 2010; that he faced an execution date set for the end of that month; and was actually taken to Huntsville, Texas to be executed. However, the execution was stayed. Mr Green was then returned to his cell next to mine on death row.

In March of 2011, Mr Green and I were both moved. However, we were again housed right next to each other. From the 14th of March, 2011 to the 20th of October, 2011, I lived in 12AC-32, and Mr Green lived in 12AC-31. From June 2010 until October 2011, the distance separating our two doors was therefore roughly 12 inches. The steel doors in 12-Building have two vertical slits of approximately 4 inches in width which run from the top of the door to waist level, and which are covered in a sort of metal

mesh. These openings allow for instantaneous viewing of the cells by security personnel, and also facilitate communication between offender and officer. They also allow one to see and hear all that occurs in the open areas of each section, known colloquially as the "run". Thus, during this year and four month period, I was able to hear Mr Green when he was in his adjacent cell and I was able to observe Mr Green when he was led from his cell to the shower or the dayroom. I was also able to see when an official was standing in front of his door, and hear the entire conversation if I so chose.

After Mr Green's execution was stayed, he began spending long stretches of time in a stupor, which was evidently induced by antipsychotic drugs. I know that he received medication from the Polunsky staff because of mental illness, and I understand that this illness played a role in the stay of execution in late June of 2010. Medication is passed out twice a day, once in the morning hours (usually between 7 and 8 am) and once at night (usually between 9 and 11 pm). I take a generic form of Prilosec for acid reflux disease, and therefore was always called to my cell door immediately before Mr Green was. I was thus able to witness his taking of medication, and also his confused and at times outré interactions with the staff of the University of Texas Medical Branch. Despite having been told that Pill Technicians were not nurses and were not authorized to opine on any matter whatsoever regarding healthcare, Mr Green would often complain to these officials about his myriad pains and delusions. The responses to such comments were almost universally brusque, if not downright condescending. To my knowledge, never once were his complaints forwarded to anyone of higher authority. Considering that he often spoke of hearing voices or seeing objectively impossible objects, this is particularly offensive to any normal understanding of medical responsibility or ethics.

Mr Green is obese, and I frequently heard his loud snoring at all times of the day. For days at a time after he returned from Huntsville, Mr Green would only crawl out of bed to receive his meals before returning to sleep. Three times a day, the officers would have to pound on his door with a steel implement in order to rouse him; at times, this process took several minutes. On several occasions, Mr Green was so unresponsive that higher-ranking officers were summoned to deal with him. Once, several of the officers thought that Mr Green had stopped breathing altogether. In order for a sergeant to be called to a pod, the two officers working the run must communicate this need to the officer working inside the security picket. Death row is equipped with two-way speakers positioned on the ceiling of the run for just such eventualities, only few (if any) of these actually function. As a result, officers must shout at high volume in order to be heard by the officer inside the picket. Even were I not able to directly witness the officers' inability to rouse Mr Green, I would have still been informed of the nature of the problem by this shouting, as virtually everyone else was on the pod.

Mr Green was always extremely confused upon waking, and would ask me bizarre questions which made apparent the fact that he did not know what date it was, or in which pod of the building he was living. Once he wished me a Merry Christmas several weeks into the month of September, and apropos nothing whatsoever.

Mr Green seldom left his cell during the period I was housed next to him. I can think of only two occasions when he went to recreate. When I saw Mr Green in the dayroom, he shuffled around in circles for a few minutes, a confused and worried look on his face. He wouldn't talk to anyone, merely saying, "Hey, hey" whenever someone called him. After a short time, he laid down on the exercise mattress and fell asleep.

Mr Green did not regularly shower or shave. His living conditions were atrocious, and a stench resembling a barn came from his room and followed him about. The odor was noticeable despite the limited circulation of air in prison. I noticed that Mr Green's prison garments were disheveled, and soiled by food and possibly other waste whenever I saw him.

I came to find out that Mr Green was incapable of correctly filling out basic forms (such as are required for commissary or for officials to respond to a request for information). Mr Green's neighbors have to help him. I personally filed many papers for Mr Green, including at least one grievance, approximately ten commissary forms, and numerous I-60's (forms used to make requests of a general nature). I am aware that other inmates also assisted Mr Green in this capacity, and have done so for many years. On several occasions, I also had to read him the legal documents sent to him by his attorney, and then attempt to explain what they meant in simplified language.

Mr Green's grasp of his situation is very uncertain. He is aware that he is in prison, but is confused when it comes to specifics. Despite the fact that he gets regular mail from his attorney, he claims that he has no attorney. Mr Green is also firmly convinced that all that is required to procure his release is for someone - anyone - to file some sort of papers with the court. He expressed this belief several times with all sincerity.

When Mr Green was not slow and listless, his behavior was extremely erratic. Judging from the response of the prison staff, this appears to be associated with Mr Green's inability to follow instructions to take his medication. On countless occasions, I have heard Mr Green talking to himself. I would at times also hear loud banging noises emanating from his cell, though I cannot say what precisely produced this sound. On more occasions than I can number, I have heard him begging and weeping for someone to let him be, and these pathetic sobs count as some of the most disturbing sounds that I have ever heard. When I questioned him about this, he claimed that his cell was infested with demons. I am not a man prone to the shedding of tears, but the concentrated misery of his condition at times made me choke up. It is a special kind of hell to be mere feet from a man locked into a state of total and complete desolation, and be unable to offer him even the slightest shred of relief. How the officers managed to see this on a daily basis and do nothing is beyond my conception.

This torment by "demons" or "spirits" is an extremely common theme with the man, and I have had to call several nurses and ranking officers to the pod to deal with him when these moods come upon him. I have also tried to get the volunteer chaplains to assist Mr Green, on the ultra-rare occasions that they actually

show up here on the Row. None of these people were able to help him, of course. I have overheard Mr Green tell many people besides myself that demons pick him up and drop him, and I have seen dark coloration, perhaps bruises, around his eyes that may have been self inflicted in the course of these fits.

Roughly once a week, a representative of the University of Texas Medical Branch ("UTMB") would come by his cell to perform a "mental health exam." I have witnessed these so-called exams with astonishment. Mr Green is obviously suffering from a severe mental disease. These exams, however, routinely amounted to simply asking Mr Green if he was "ok" and waiting for a verbal response. These exams are conducted from the other side of a steel door, and often last less than ten seconds.

On the few occasions where mental health personnel stayed long enough at Mr Green's door to carry out a short conversation, I have heard Mr Green tell these individuals about the demonic infestation of his cell. The response has not been professional or even remotely sympathetic, whether by UTMB or other staff at Polunsky. In fact, the only person who does not noticeably roll her eyes when Mr Green describes his affliction is a woman named Ms Julia Roy, who appears to at least make an attempt to placate him; usually, she simply says that she is going to contact the chaplain for him. Even were the chaplain to actually show up - which never happens - this promise would amount to nothing better than a crass attempt to pass the buck. Whatever Mr Green subjectively believes about the supernatural world is immaterial to UTMB's job of objectively diagnosing his mental condition. His problem is schizophrenia, not demons, and any qualified psychologist would know this. Any decent human being would as well, though we seem to be in short supply of both around here.

Over the roughly sixteen months that I lived next to Mr Green, the episodes of his truly bizarre behavior increased in frequency, despite getting what I have reason to think were large doses of anti-psychotic drugs. Mr Green's inability to converse deteriorated to the point that he just mumbled. Similarly, his ability to comprehend or compose simple writings, including filling out forms, fell apart.

If called as a witness, I would testify to the foregoing in a court of law. I hereby swear, affirm and state that the foregoing is true and correct under penalty of perjury pursuant to Title U.S.C. § 1746.

FURTHER AFFIANT SAYETH NOT.



THOMAS BARTLETT WHITAKER

9.6.2012

DATE