

Approved: Lara K. Eshkenazi / Daniel C. Richenthal  
LARA K. ESHKENAZI/DANIEL C. RICHENTHAL  
Assistant United States Attorneys

Before: THE HONORABLE FRANK MAAS  
United States Magistrate Judge  
Southern District of New York

----- X	:	
UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
	:	
- v. -	:	Violation of
	:	18 U.S.C. § 242
TERRENCE PENDERGRASS,	:	
	:	
Defendant.	:	COUNTY OF OFFENSE:
	:	BRONX
----- X	:	

SOUTHERN DISTRICT OF NEW YORK, ss.:

JEFFREY GROVE, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE  
(Deprivation of rights under color of law)

On or about August 18, 2012, in the Southern District of New York, TERRENCE PENDERGRASS, the defendant, under color of a law, statute, ordinance, regulation, and custom, willfully subjected a person in a State, to wit, the State of New York, to the deprivation of a right, privilege, and immunity secured and protected by the Constitution and laws of the United States, to wit, the right to be free from deliberate indifference to a serious medical need, which deprivation resulted in bodily injury to a person, to wit, while working as a captain in the New York City Department of Correction assigned to Rikers Island in the Bronx, New York, PENDERGRASS knowingly ignored and instructed others to ignore inmate Jason Echevarria's need for medical help, which resulted in bodily injury to Echevarria.

(Title 18, United States Code, Sections 242 and 2.)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

1. I am a Special Agent with the FBI and have been employed by the FBI since February 2009. I have participated in the investigation of this matter, and I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents and recordings, and conversations that I have had with other law enforcement agents and other individuals. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents, and the actions and statements of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

2. Based on my training and experience, and my review of documents, and my interviews of individuals employed by the New York City Department of Correction, I have learned the following:

a. Rikers Island is a jail complex, located in the Bronx, New York, maintained by the New York City Department of Correction ("NYC DOC").

b. The Mental Health Assessment Unit for Infracted Inmates ("MHAUII") is a unit on Rikers Island housing inmates who have committed infractions while incarcerated and who have been identified as needing mental health treatment.

c. On August 18, 2012, an individual named Jason Echevarria ("Echevarria") was an inmate incarcerated in MHAUII. Echevarria was placed in MHAUII following, among other things, suicide attempts, including the swallowing of a battery.

d. TERRENCE PENDERGRASS, the defendant, joined NYC DOC in 1996, and was promoted to captain—that is, a supervisory correction officer—in June 2012.

e. On August 18, 2012, TERRENCE PENDERGRASS, the defendant, was assigned to MHAUII between 3:00 p.m. and 11:00 p.m., and in that capacity supervised multiple correction officers ("COs").

3. Based on my review of video surveillance footage taken within MHAUII, my review of documents, and my interviews of individuals working in MHAUII on August 18-19, 2012, I have learned the following, in substance and in part:

a. Starting in the evening of August 18, 2012, there was a sewage backup in MHAUII, causing certain cells to flood, including that of Echevarria.

b. On Rikers Island, a powerful disinfectant/detergent combination in powder form, commonly referred to as a "soap ball," is sometimes provided to inmates to assist in the cleaning and disinfecting of cells. These soap balls contain, among other things, ammonium chloride, a corrosive chemical that is harmful if it comes in contact with one's eyes and life threatening if ingested.

c. Pursuant to NYC DOC manuals and policies, given the danger that soap balls present, inmates are not supposed to be provided with a soap ball unless the soap ball is diluted in multiple gallons of water before use.

d. At approximately 1:40 p.m., a correction officer ("CO-1"), who was new to Rikers Island and unaware of the danger of soap balls, handed Echevarria at least one soap ball to assist in the cleaning of Echevarria's cell, without ensuring that the soap ball was diluted in water before leaving Echevarria alone.

e. At approximately 4:30 p.m., Echevarria banged on his cell door and informed a different correction officer ("CO-2") that Echevarria had ingested a soap ball and needed medical help.

f. Shortly after speaking to Echevarria, CO-2 informed TERRENCE PENDERGRASS, the defendant, that Echevarria stated that Echevarria had ingested a soap ball and requested medical help. According to CO-2, PENDERGRASS responded, in substance and in part, that CO-2 should not call on PENDERGRASS if there were live inmates in cells. Rather, CO-2 should call on PENDERGRASS only if CO-2 needed help with an extraction of an inmate from a cell or if there was a dead body.

g. A short time later, CO-2 saw vomit on the window and floor of Echevarria's cell. CO-2 advised TERRENCE PENDERGRASS, the defendant, of the vomit that CO-2 had seen, and PENDERGRASS responded, in substance and in part, that Echevarria should "hold it."

h. At approximately 5:35 p.m., a pharmacy technician (the "Pharmacy Technician"), assigned to distribute medication to the inmates in MHAUIII, saw what appeared to be vomit on the window of Echevarria's cell. The Pharmacy Technician also saw that Echevarria's face appeared discolored and heard Echevarria ask for medical help. The correction officer serving as the Pharmacy Technician's escort ("CO-3") also heard Echevarria ask for medical help and CO-3 told the Pharmacy Technician that CO-3 had heard from a different inmate that Echevarria had swallowed a soap ball. The Pharmacy Technician informed CO-3, in substance and in part, that Echevarria could die if he did not receive medical help. The Pharmacy Technician and CO-3 then jointly informed CO-2 that Echevarria needed such medical attention. CO-2 responded, in substance and in part, that CO-2 had already informed TERRENCE PENDERGRASS, the defendant, that Echevarria needed medical help, and suggested that CO-3 do the same.

i. Soon thereafter, in the presence of CO-2, CO-3 informed TERRENCE PENDERGRASS, the defendant, that Echevarria had swallowed a soap ball and needed medical help. PENDERGRASS asked CO-3, in substance and in part, to document what he understood in a report. CO-3 obtained paper to do so.

j. CO-3 walked over to and sat down at a desk, next to CO-2 and another correction officer, to write a report. While CO-3 was sitting at the desk, video surveillance footage reveals that TERRENCE PENDERGRASS, the defendant, walked to Echevarria's cell and looked inside the cell window for several seconds.

k. Shortly after looking into Echevarria's cell, TERRENCE PENDERGRASS, the defendant, walked to the desk where CO-3 was writing and asked CO-3, in substance and in part, whether CO-3 had heard Echevarria correctly—that is, whether Echevarria had indeed complained of having swallowed a soap ball and needing medical help. After CO-3 responded that CO-3 had heard Echevarria correctly, PENDERGRASS stated, in substance and in part, that PENDERGRASS believed otherwise, and that CO-3 should follow PENDERGRASS. CO-3 and PENDERGRASS walked away from the desk, with CO-3 carrying the report on which CO-3 had been working.

l. During the time period between approximately 4:30 p.m., when CO-2 first informed the defendant, TERRENCE PENDERGRASS, that Echevarria needed medical attention, and approximately 11:00 p.m., when TERRENCE PENDERGRASS'S shift ended, Echevarria did not receive any medical assistance.

m. Hours later, on the morning of August 19, 2012, at approximately 8:35 a.m., Echeverria was discovered dead in his cell. At least one soap ball was in the cell, with some of the powder missing. There appeared to be vomit in the toilet. There was blood around Echeverria's mouth.

4. Based on my interview of an individual ("Inmate-1") formerly incarcerated at MHAUII, I have learned the following:

a. On or about August 18, 2012, Echevarria was continually banging on his cell door and asking for medical help. Echevarria told Inmate-1 that Echevarria had swallowed a soap ball.

b. The Pharmacy Technician informed CO-2 that Echevarria needed medical attention. Sometime thereafter, TERRENCE PENDERGRASS, the defendant, looked directly into Echevarria's cell for several seconds.

5. Based on my interview of another individual ("Inmate-2") formerly incarcerated at MHAUII, I have learned that on or about August 18, 2012, Echevarria was screaming for help and asking for medical help. Inmate-2 also observed Echevarria spit blood out of his mouth. A correction officer informed Inmate-2 that the captain on duty had been notified of Echevarria's request for medical help. Inmate-2 heard TERRENCE PENDERGRASS, the defendant, ask a correction officer, in substance and in part, why the correction officer was calling him about this "bullshit." At some point later, Inmate-2 was escorted past Echevarria's cell and Inmate-2 observed that Echevarria's skin was discolored.

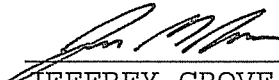
6. Based on my review of the file maintained by NY DOC with respect to the death of Echevarria, I have learned that no report was ever filed by CO-3 (or any other CO) documenting that Echevarria requested or needed medical help, nor was Echevarria provided with medical help. The report referred to in paragraph 3.j above, which CO-3 began to fill out before TERRENCE PENDERGRASS, the defendant, asked CO-3 to follow PENDERGRASS, has not been found.

7. Based on my review of documents maintained by the Office of the Chief Medical Examiner for the City of New York (the "Medical Examiner"), my review of correspondence regarding an autopsy of Echevarria performed by the Medical Examiner, and my interview of the individual who performed the autopsy of Echevarria, I have learned the following:

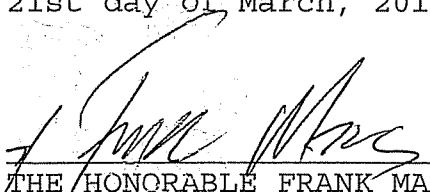
a. Echevarria died as a result of injuries caused by the ingestion of a caustic substance, consistent with the ingestion of a soap ball. Specifically, Echevarria had internal chemical burns and scarring along his esophagus and into his trachea, indicating, among other things, that he suffered aspiration of vomit into his lungs.

b. Echevarria had likely been dead for multiple hours by the time his body was found.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of TERRENCE PENDERGRASS, the defendant, and that he be imprisoned, or bailed, as the case may be.

  
\_\_\_\_\_  
JEFFREY GROVE  
Special Agent  
FBI

Sworn to before me this  
21st day of March, 2014

  
\_\_\_\_\_  
THE HONORABLE FRANK MAAS  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK