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## Inmate claimed he was penalized for reporting rape by Nebraska prison guard; judge says otherwise

Todd Cooper  
May 11, 2020

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**A** former warden and a former investigator at the Nebraska Department of Correctional Services didn't retaliate against a prisoner who reported a sexual assault by a prison guard, a judge has ruled.

The former prisoner had accused corrections officials of putting him in solitary confinement and branding him a liar for reporting the guard, who ultimately was convicted of sexual assault.

The former prisoner did not appeal Judge Michael Coffey's decision — and so the judge's ruling should end the eight-year battle over the his treatment. Former corrections officer Anthony Hansen was convicted of the 2012 sexual assault of the man at the Omaha Correctional Center after the man saved the guard's bodily fluids in a napkin.

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The ex-prisoner never sued Hansen, who was sentenced to two years of probation for sexual assault. Instead, he focused on corrections officials' interview of him and his subsequent placement in a segregated unit, alleging that both were punitive.

In the eyes of the former assistant attorney general who handled the matter, the judge's ruling is an exoneration of Michael Kenney, a one-time warden who went on to an embattled stint as the interim director of corrections.

It also clears Geoff Britton, an investigator who has since retired from the Corrections Department and now leads a law enforcement agency in California.

“Our case never disputed or minimized the assault,” said Dave Lopez, a former assistant Nebraska attorney general who handled several appeals. “Our job was to demonstrate that what the warden and investigator did — immediately plac(ing) the victim in protective custody and accelerat(ing) the DNA testing of the napkin he submitted ... reflected a nearly perfect institutional response to a horrible crime.”

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Judge Coffey ruled that the special housing unit at the Omaha Correctional Center included several different restrictive housing situations, some that were punitive and some that weren't.

The 37-year-old inmate's placement in this case was protective, not punitive, Coffey ruled.

“There is no evidence that the plaintiff's conditions of protective custody constituted ‘solitary confinement,’” Coffey wrote. “The evidence shows that (the inmate) was not denied meals, medical care, mail, showers, contact with family” or even access to the law library.

“In a situation where an inmate ... (is) the victim of a sexual assault, it is the best practice for the correctional facility to place the inmate in protective custody for his own protection.”

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As for the investigator, Coffey noted that Britton found the inmate's account of the sexual assault credible — so credible that he ordered an expedited DNA test on the bodily fluid.

The inmate had stated that the most traumatic part of the interview was when Britton informed the inmate that he would prosecute him to the fullest extent of the law if he was lying. Such language is common in interrogations.

The judge further wrote that Britton's admonishments to the inmate to not discuss the case were to "benefit the investigation," not to squelch the inmate's free-speech rights.

"Britton did not tell the plaintiff to change his story or (indicate) that he believed the plaintiff was lying," Coffey wrote.

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Britton now works as chief of the law enforcement agency overseeing the safety of developmentally disabled and mentally ill patients in the California state system.

Kenney rose from warden of the Omaha Correctional Center to interim director of the Corrections Department before a World-Herald investigation in 2014 revealed that officials had released, or were set to release, 750 prisoners years before they should have been. After that turbulence — which included seven special legislative investigative hearings — Kennedy retired, paving the way for the state's hiring of the current corrections chief, Scott Frakes.

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