

IN THE CIRCUIT COURT OF YELL COUNTY, ARKANSAS
DANVILLE DISTRICT

STATE OF ARKANSAS

PLAINTIFF

V.

CASE NO: 75SCR-15-

TIMOTHY SPEARS
W / Male DOB: 9/10/1986

DEFENDANT

ARREST WARRANT

To any Sheriff, Constable, Policeman or Law Enforcement Officer in the State of Arkansas,
Greeting:

It appears upon information that there are reasonable grounds for believing that **TIMOTHY SPEARS** has committed the offense(s) of violating,

Code #	Offense	A/C/S	Offense Date	Counts	F/M	Class
5-13-202	BATTERY - II		3/22/2014	1	F	D

You are commanded forthwith to arrest **TIMOTHY SPEARS** and bring HIM before the Judge of this Court to answer said information and to be dealt with according to the law.

Witness my hand and the seal of said court this 14th day of July, 2015.



SHARON BARNETT, Circuit Clerk

BY: [Signature]
Deputy Clerk

BOND TO BE SET AT HEARING

Plea or arraignment in this case is set for 9:00 a.m. for the 4th day of August 2015 at the YELL County Courthouse in Danville, Arkansas. The defendant shall advise the Clerk of the Court, in writing, of his or her mailing address, and the name of his or her attorney.

STATE OF ARKANSAS
COUNTY OF YELL

SHERIFF RETURN

I have this _____ day of _____, A.D. 2015 duly served the within by arresting the above named **TIMOTHY SPEARS**.

Sheriff BILL GILKEY

By: _____ D.S.

DEPUTY:

PLEASE ADVISE THE DEFENDANT OF THE APPROPRIATE COURT DATE. IF THIS WARRANT IS SERVED AFTER THE COURT DATE NOTED ABOVE, ADVISE THE DEFENDANT OF THE NEXT AVAILABLE CIRCUIT COURT DATE. THOSE DATES ARE AS FOLLOWS:

AUGUST 6, 2015

SEPTEMBER 3, 2015

DECEMBER 3, 2015

OCTOBER 1, 2015

NOVEMBER 5, 2015

IN THE CIRCUIT COURT OF YELL COUNTY, ARKANSAS
DANVILLE DISTRICT
FIRST DIVISION

STATE OF ARKANSAS

PLAINTIFF

V.

NO. 75SCR-15-

TIMOTHY SPEARS

DEFENDANT



DOB 9/10/1986
RACE W
SEX Male

INFORMATION

Comes the Prosecuting Attorney for the DANVILLE District of the FIRST Division of YELL County, Arkansas, and in the name and by the authority of the State of Arkansas, charges **Timothy Spears** with the crime(s) of **BATTERY - II** as follows:

COUNT 1: BATTERY - II ARK. CODE ANN. § 5-13-202. The said defendant in the DANVILLE District of the FIRST Division of YELL COUNTY, did unlawfully and feloniously on or about March 22, 2014.

5-13-202. Battery in the second degree.

(a) A person commits battery in the second degree if:

(1) With the purpose of causing physical injury to another person, he causes serious physical injury to any person;

(b) Battery in the second degree is a Class D felony.

Thereby committing the offense of BATTERY - II, said offense being a CLASS D FELONY against the peace and dignity of the State of Arkansas.

There appearing reasonable grounds for believing the alleged offense(s) was committed by defendant, a warrant is therefore prayed for his arrest to be issued by the court.

D. Jason Barrett,
SPECIAL PROSECUTING ATTORNEY

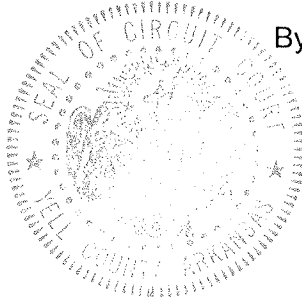
A handwritten signature in black ink, appearing to read "D. Jason Barrett".

D. Jason Barrett, Bar # 96060
Special Prosecuting Attorney

SUBSCRIBED AND SWORN to before me this 14th day of July 2015.

SHARON BARNETT, Circuit Clerk

By: Jalene _____ D.C.



IN THE CIRCUIT COURT OF YELL COUNTY, ARKANSAS
DANVILLE DISTRICT


AFFIDAVIT FOR WARRANT OF ARREST

Timothy Spears
Defendant's Name

09/10/86
DOB

W
Race

M
Sex


Defendant's Address

The undersigned Affiant(s) being duly sworn, deposes and says that the following facts are true and correct and submit said facts for review for the offense committed on or about **March 22, 2014** in Yell County, Arkansas, against the peace and dignity of the State of Arkansas.

FACTS CONSTITUTING PROBABLE CAUSE

On March 28, 2014 Fifteenth Judicial District Prosecuting Attorney TOM TATUM and the Arkansas State Police (ASP) CACD requested an investigation into an incident at the Yell County JDC. The incident involved a use of force by Yell County deputy MICHAEL SPEARS and Danville police officer TIM SPEARS that resulted in injuries to a male juvenile inmate referred to as DB.

The JDC began operations in January of 1997, holding residents ranging in age from ten (10) to twenty-one (21) years old. The JDC is a twenty-five bed facility comprised of five (5) blocks, one (1) of which is usually designated for housing female inmates. The five (5) blocks are made up of individual cells referred to as pods. The incident under investigation occurred in Block B, Pod B-5. "B" block is built to house eight (8) inmates; however, at the time of the incident, approximately ten (10) inmates were housed in B block (see IOW- KRISTI PADGETT).

Discipline issues in the JDC range from disruptive behavior such as banging on doors to fighting among inmates and assaults on JDC staff. Corrective disciplinary actions employed by the JDC start with loss of recreation privileges. The disciplinary actions progress to the loss of blankets and bedding, and culminate in restraint, using a device referred to as the wrap. The wrap, or wrapping an inmate, refers to using a restraint device that binds the inmate's arms behind their back and restricts the inmate's mobility. According to JDC staff, the inmate is left sitting in an upright position for up to two (2) hours.

From interviews with JDC staff and local law enforcement, it was learned that it is a common and frequent occurrence that JDC Staff request assistance from local law enforcement. Most requests for assistance at the JDC are answered by the Danville Police Department (DPD). However, the Yell County Sheriff's Department (YCSD) and ASP have responded to JDC requests for assistance.

Responding officers are often asked to help with restraining inmates and performing what is referred to as a "walk through". A walk through is defined as when a uniformed

officer simply walks through the JDC facility. JDC staffers stated a walk through is very effective in quieting the facility and lets the inmates know there are more people present than just JDC staff.

The victim in this case, DB, age thirteen (13), had received a "true delinquency" adjudication for harassment and four (4) counts of disorderly conduct entered into Pope County Circuit Court on January 30, 2014. On March 22, 2014, DB was serving the ninth (9th) day of a ten (10) day sentence in the JDC for a probation violation. DB had been in lockdown, confined to his cell, for two (2) to three (3) days prior to the night of the incident for disruptive behavior and was in lockdown at the time of the incident.

On the evening of March 22, 2014, Yell County Deputy MICHAEL SPEARS and Danville Police Officer TIMOTHY SPEARS entered DB'S cell at the JDC to place him in restraints after DB continued to cause a disturbance at the JDC. During the encounter, DB was injured and subsequently transported to Arkansas Children's Hospital (ACH) for treatment of a broken arm. ACH personnel contacted the Arkansas Child Abuse Hotline to report the injuries and the information was forwarded to the ASP/CACD who referred the case to the ASP Criminal Investigation Division.

On March 23, 2014 DB was interviewed by ASP CACD Senior Investigator DANA DUSHA. In the interview, DB stated he was angry because other inmates were saying inappropriate things about his sister. DB stated the officers instructed him to come out of the cell and he "bowed up" on them. DB said he had his fists to the side and his hands were balled up. DB said he came out of the cell, looked at one of the officers, and could see a second officer out of the corner of his eye. DB said both officers told him to get against the wall, and he was going to comply before he got hit with a baton. DB said the officers slung him against the wall and both officers grabbed his arms. DB said, "I kinda jumped because it scared me and the next thing I know my arm is popped and I thought they hit me with the baton, and I could not feel the lower half of my arm."

According to interviews with JDC staff and other inmates, DB was being disruptive on the evening of March 22nd by banging on the interior of his cell door. Also in Pod B-5 with DB at the time of the incident were inmates JW, ZM, DE, and KF.

In an interview with YCSD investigators, JW stated DB had been kicking the door for thirty (30) to forty-five (45) minutes after being told by JDC Assistant Administrator ROBIN BAREFIELD to calm down. JW stated officers told DB to come out of the pod once, and JW felt that the "little cop" was going to do something sneaky.

ZM told investigators DB was mad and BAREFIELD had warned DB to stop kicking the door, but he continued. ZM said he told DB the cops were present and DB said they were not going to put him in wrap. ZM said the officers told DB to turn around three (3) or four (4) times and DB was making himself look bigger.

DE told investigators DB was mad and had been kicking the door. DE said the officers told DB to put his hands behind his back but DB did not. DE also said the officers told DB to turn around one (1) time, but DB did not. DE said DB stuck his chest out and looked at one of the officers in the eyes.

KF told investigators DB did not "bow up" on the officers. According to KF, the officers said something to the effect of "so you think you're a bad ass". KF said the officers told DB one time to come out of the cell, and DB had an attitude, but didn't throw any punches.

Other inmates within Block B but outside Pod B-5 were interviewed and the consensus of the information was that DB was kicking the door, after which officers told DB one (1) or two (2) times to come out of the pod and turn around. Several inmates described DB as "bowing up" on the officers, and one inmate, DS, stated DB had been talking crap and causing problems all day.

On April 09, 2014 I interviewed Yell County Deputy Sheriff MICHAEL SPEARS. Deputy SPEARS stated he has worked as a deputy for the YCSD for approximately one (1) year. He said it was common for local police officers to respond to the JDC for problems, but the frequency of calls to the JDC varied due to overcrowding, etcetera. He said he used to be a supervisor at the JDC and the problems can range from disruptive behavior to assaults on JDC staff.

Deputy SPEARS explained why disruptive behavior such as kicking on the cell doors was a problem. He said behavior of that type normally begins after "lights out". He said JDC staff cannot always tell who is causing the disruption, so the discipline is to take mats and blankets from everyone in the cell, causing the other inmates to get mad.

On the night of the incident, Deputy Spears said he had been on his shift approximately forty-five minutes and was visiting with TIM SPEARS outside the Sheriff's Office. He said TIM SPEARS started walking towards the JDC and he asked TIM (SPEARS) where he was going. He stated TIM (SPEARS) said he got a message from ROBIN BAREFIELD that they had one in the wrap and he was going to do a walk through. Deputy SPEARS said he told TIM (SPEARS) to "wait up" and he would go with him.

Deputy SPEARS said as soon as they got to the JDC they went to BAREFIELD'S office where they observed an inmate in the wrap. Deputy SPEARS said he and TIM (SPEARS) were talking to BAREFIELD when a female staff member SHYNAH DALY came in and said they had been having trouble in B Block. Deputy SPEARS stated he and TIM (SPEARS) decided to walk through the entire facility since they were already there and it was recreation time when the inmates get to come out of their cells. Deputy SPEARS said he and TIM (SPEARS) entered the unit from the isolation side and spoke to JDC staff member DYLAN PENZO. Deputy SPEARS said they asked PENZO what was going on and PENZO stated they were about to have to put an inmate in wrap. According to Deputy SPEARS, PENZO told him the inmate kept beating on the door and was about to get into a fight with another inmate. Deputy SPEARS stated he and TIM (SPEARS) offered to handle it while they were in the facility.

Deputy SPEARS stated he had been to the JDC and B Block in particular, numerous times in the last several weeks. He stated that during recreation time there could be as many as twelve (12) inmates in the common area with as few as two (2) officers. He said the inmates are required to be outside their pod during recreation unless they are on lock down.

Deputy SPEARS stated he recognized DB as someone he had dealt with two (2) weeks prior regarding a fight with another inmate, but he didn't know who he was going in to deal with at first.

Deputy SPEARS said he, TIM, and BAREFIELD entered "B" Block and he never noticed TRAVIS CARROLL entering and thought TRAVIS must have entered after him. He said he extended his baton because he had had dealings with the inmates and he knew how they were. He said TIM told the inmates to stand next to the wall and he then took an angle towards the cell door while TIM walked straight to the door.

Deputy SPEARS said he could see DB sitting with his fists clenched and breathing heavy when the door opened. He said TIM told DB to get up and come out but he never moved. He said he then told DB to get up and come out with his hands behind his back. He said he told DB twice to get up before he got up. He stated DB walked out towards them and never took his eyes off TIM (SPEARS) with his fists still clenched, breathing heavy and his chest bowed out. He said he told DB to get against the wall with his hands behind his back twice, but he never did. He said he was about to repeat the command a third time when DB started to flex up. He said he thought DB was about to swing so he grabbed him with his left hand and pushed him against the wall.

Deputy SPEARS said DB was still tensing up in his back while he had his hand on his back. He said he still had his baton in his hand and was telling BAREFIELD to shut the cell door because there were three (3) other inmates still in the cell. He said he could feel DB trying to bow out and come back as he was pushing him against the wall. He said he told him to quit resisting and could feel him trying to turn towards him, but kept him from turning by holding him against the wall. He said DB tried to bring his hands back and that's when TIM (SPEARS) grabbed his other hand. He said DB's hand came up, he heard a pop and the handcuffs were put on. He said TIM (SPEARS) turned to BAREFIELD and told her to call EMS. He said they removed DB from the block, removed the handcuffs, and walked him upfront to see EMS.

On April 09, 2014 I interviewed JDC Detention Officer TRAVIS CARROLL regarding this investigation. CARROLL recalled having problems with DB on the day of the incident when CARROLL first started his shift. He said DB was upset with another inmate who was talking about DB'S sister. He said he already had a different inmate in the wrap, and took that inmate to BAREFIELD'S office. He said DB and another inmate, JW, would not stop. He said his plan was to put DB in the wrap and JW in the restraint chair. He said that saw the two (2) officers and asked them if they were there to pepper spray. He stated that TIM (SPEARS) and Deputy SPEARS asked him if someone needed pepper sprayed, and he told the officers he was about to put someone in the wrap, to which the officers replied, we can take care of that.

CARROLL said BAREFIELD opened the door and the two (2) officers went into the block. I asked CARROLL if the purpose of the officers going in was to put DB in the wrap and he replied "yes, he was going to be handcuffed and taken up to our visitation room and pepper sprayed and JW was going to be handcuffed, taken to the visitation room and be sprayed as well. That was the purpose of them being handcuffed".

CARROLL said he entered B Block and remained at the block door as the officers approached the B-5 cell door. CARROLL said BAREFIELD opened the cell door and MICHAEL was in his line of sight, but he could see DB sitting on a stool with his fists balled up. CARROLL said he could tell DB was mad. He said he heard MICHAEL tell DB to get up twice, and DB did. He said he did not hear the officers tell DB to get against the wall, but he was concerned with watching the other eight (8) or nine (9) inmates who were out of their cells. Once DB came out, CARROLL said he saw TIM (SPEARS) put DB against the wall and he heard a pop. He said after the pop, he heard TIM (SPEARS) tell BAREFIELD to "call an ambulance, I've dislocated his shoulder". CARROLL said DB was handcuffed and escorted up front to the booking area, where CARROLL thought TIM (SPEARS) removed the handcuffs from DB.

On April 09, 2014 I interviewed JDC Assistant Administrator ROBIN BAREFIELD. On the evening of the incident, BAREFIELD said she had returned to the JDC and had an inmate in the wrap outside her office. She stated she was informed that the staff had problems with DB being aggressive, not listening, and kicking the door earlier in the day. She stated DB had been in a fight with another inmate two (2) nights prior to this incident.

BAREFIELD said that while she was at the JDC, DB was having problems with the inmates who were in the day area and she went to talk to him. She said she told DB to stay away from his cell door and she would handle the problem with the other inmates. She said he was using profanity, but settled down, and she told the juveniles in the day area outside DB'S door to leave him alone. She said she had to leave because of the inmates in the wrap, but DB was calm and sitting on his bed when she left.

BAREFIELD said she returned to her office where she contacted TIM (SPEARS) and told him about having an inmate in the wrap. BAREFIELD stated TIM (SPEARS) said he would come over and do a walk through. BAREFIELD said TIM (SPEARS) and Deputy SPEARS came over to her office and she, along with TIM (SPEARS) and Deputy SPEARS started their walk through. After starting the walk through, BAREFIELD said they ran into JDC staffers DYLAN PENZO and TRAVIS CARROLL who told them DB was still acting up and they were about to put him in the wrap.

At this point I asked BAREFIELD what the issue was with inmates kicking or banging their cell doors. BAREFIELD explained that it was a safety issue because juveniles were usually worked up when they were banging the doors, and they sometimes injured their hands or feet.

BAREFIELD said PENZO had to deal with an inmate on the control two side, so she, CARROLL, MICHAEL and TIM entered B Block. BAREFIELD said CARROLL stayed back while she, MICHAEL, and TIM approached the cell door. BAREFIELD said she opened the door and could see DB sitting with his fists and jaw clenched. BAREFIELD stated Deputy SPEARS told DB to come out but DB didn't respond. Deputy SPEARS told DB a couple of more times to come out, then DB got up and started walking towards them, never taking his eyes off TIM (SPEARS).

BAREFIELD said DB walked out of the cell and Deputy SPEARS told him twice to put his hands behind his back and get against the wall. BAREFIELD stated DB never took

his eyes off TIM (SPEARS) and she was concerned enough that DB was going to hit TIM (spears) that she took a step back. It was at this point that Deputy SPEARS put DB against the wall. BAREFIELD said DB kept pushing back against Deputy SPEARS and TIM (SPEARS) handcuffed DB. BAREFIELD said she did not hear a pop, but TIM (SPEARS) told her to call an ambulance because he heard DB'S arm pop.

BAREFIELD said they normally apply the wrap in the day area, but because the inmates were out in the area for "rec" time they had to cuff DB. BAREFIELD said they planned to remove DB from the block and apply the wrap in the control area.

BAREFIELD said TIM (SPEARS) and Deputy SPEARS escorted DB to the booking area while she contacted EMS and notified her administration. BAREFIELD estimated EMS arrived in less than five minutes after she called. BAREFIELD said she and Deputy SPEARS transported DB to the hospital in MICHAEL'S police car and DB asked her if he was going to get charges or if this would affect him getting to go home the next morning.

DB was transported by Deputy SPEARS and BAREFIELD to Chambers Memorial Hospital in Danville where DB was treated by DR. JACKY DUNN. DUNN stated he remembered the incident and recalled asking the victim about his injuries. DUNN said DB told him the injury was the result of his acting out. DUNN stated the police officer said DB had been resisting. DUNN said all the parties were "matter of fact" about the incident and no one appeared to be hiding anything. DUNN stated he did not feel the officers acted inappropriately, and a spiral fracture could occur fairly easily if the arm was in an awkward position.

The YCSD and the JDC provided a compact disc (CD) copy of the video from the camera in "B" Block of the JDC. The video does not contain any audio recording and BAREFIELD stated there was no audio recording in the JDC.

The video shows Deputy SPEARS, TIM (SPEARS), BAREFIELD, and CARROLL removing DB from cell B-5.

In the video, officers can be seen instructing DB to exit the pod and BAREFIELD can be seen making a "come out" gesture with her hands. DB exits the pod and stands in front of the officers while BAREFIELD makes a "turn around" gesture. Deputy SPEARS then grabs DB and turns him against the wall, at which point, TIM (SPEARS) grabs DB's left arm at the wrist and elbow. TIM (SPEARS) can be seen in the video moving DB's arm into a handcuff position. TIM (SPEARS) then moves DB's arm away from his body, and DB'S arm is broken as the arm is rotated outward to clear Deputy SPEARS left arm. The video shows TIM (SPEARS) turn to BAREFIELD, but no audio of what TIM (SPEARS) said is available. No strikes were delivered by the officers, and DB is escorted off camera in handcuffs.

From information gathered during the interviews of JDC staff, it is apparent that DB continued to engage in disruptive behavior after warnings from JDC staff to stop. It is also apparent that JDC staff made the decision to "wrap" DB and both Deputy SPEARS and Officer SPEARS offered to assist in the restraining of DB. JDC staff, juvenile

witnesses, and the victim himself agree that DB was angry and "bowed up" on the two officers.

If the majority of the witnesses are correct in their recollection of the event, it is my observation officers followed a use of force continuum. That continuum began with verbal commands to exit the pod and to turn around against the wall, moved to a soft hand technique by putting DB against the wall, then to a pain compliance technique of bringing the arm upward. It is my further opinion DB's left hand could have been brought into that position without injury if the DB's hand had been kept close to his back. However, when DB's arm was moved away from his back to clear MICHAEL'S arm, torsion was produced that resulted in the break.

According to witnesses, TIM (SPEARS) immediately recognized an injury to DB and sought medical treatment for the injury. No strikes were thrown on the video and JDC staff reported DB was removed from the handcuffs once he was in a secure area away from other inmates. Nothing was learned from the investigation that indicates either Deputy SPEARS or Officer SPEARS entered B block with the intent to inflict injury on DB.

I swear that the allegations contained herein are the truth, the whole truth, and nothing but the truth.

1) Tfc. Ted L. Jones #389
Affiant's Signature

2) _____
Affiant's Witness Signature

Tfc. Ted L. Jones #389
Print Name
2724 Airport Road
Harrison, AR. 72602
Address
870-741-2136
Phone Number

Print Name

Address

Phone Number

Subscribed and sworn to before me this 18th day of June, 2015.

OLIVIA BAKER
NOTARY PUBLIC-STATE OF ARKANSAS
CONWAY COUNTY
MY COMMISSION EXPIRES MARCH 15, 2021
COMMISSION # 12381313

BY: Olivia Baker
Notary

I, D. Jason Barrett, Special Prosecuting Attorney, have reviewed the forgoing information and find that the facts justify the a warrant for Battery in the Second Degree be issued for the defendants Michael and Timothy Spears, and would request this Court issue said warrants based upon the included affidavit.

D. Jason Barrett
D. Jason Barrett,
Special Prosecuting Attorney

I hereby find that this sworn affidavit demonstrates reasonable and probable cause for the issuance of Warrant of Arrest for the above named Defendant, for the above stated offense(s).

Donald G. McNeil
DISTRICT/CIRCUIT JUDGE