

**DEPARTMENT OF PUBLIC PROTECTION  
INTERNAL AFFAIRS**

**Benjamin West, Subject Interview  
IA 2013-02-315**

February 15, 2013

Present:

Benjamin West, Corrections Sergeant  
Erin Thompson, Attorney at Law  
David Vanis, Captain

Bonita McClough, Transcribing Secretary

Vanis: This is Captain Vanis with the Volusia County Department of Public Protection Internal Affairs Unit. Today's date is February 15<sup>th</sup>, 2013. The time is now 1605 hours. I am at the Volusia County Branch Jail in the Internal Affairs office in regards to Internal Affairs Case Number 2013-02-315 interviewing Sergeant Benjamin West the subject of this investigation. Ah Sir, could you identify yourself for the record?

West: Sergeant Benjamin West, Volusia County Division of Corrections.

Vanis: All right and I see you brought a representative with you today an attorney. Ma'am, could you identify yourself for the record, please?

Thompson: Erin Thompson of the law firm Landis Graham French.

Vanis: All right like I just said you are the subject of this internal investigation. You've been given you've just been given an opportunity to review your previous statements and the other documentation pertinent to your investigation. Have you excuse me have you had enough time to review the documents? Do you need more time to review them?

West: No, Sir.

Vanis: Ok. Do you have any questions for me before we begin?

West: No, Sir.

Vanis: Ok. You are hereby advised that you are being interviewed as part of an official administrative investigation being conducted by the Volusia County Department of Public Protection Internal Affairs Unit. You will be asked questions specifically directed and narrowly related to the performance of your official duties and fitness for continued employment. You are entitled to all the rights and privileges guaranteed by the laws of the Constitution of this State and the Constitution of the United States, including the right not to be compelled to incriminate yourself. I'm further advising you that if you refuse to testify or if you refuse to answer questions relating to the performance of your official duties and your fitness for continued employment, it will be considered an act of insubordination and a violation of a direct order given by a superior or competent authority. If you do answer neither your statements or any information or evidence that is gained by reason of such statements can be used against you in any subsequent criminal proceeding. These statements may be used against you in relation to Divisional disciplinary actions. Be advised this is an active and open Internal Affairs investigation. I'm directing you not to discuss any part of this investigation with anyone other than your representative until this case comes to a close. Do you understand you'll be providing a sworn statement today, Sir?

West: Yes, Sir.

Vanis: Ok. Can you raise your right hand for me? Do you swear or affirm to tell the truth, the whole truth and nothing but the truth, so help you God?

West: I do.

Vanis: Ok...and ahm just so we're clear if you need a break let me know we're not gonna we won't go off the record and if you need to consult with with your attorney you can do so but once again we're gonna stay on the record and you all can step outside the room and and talk about what you need to as long as it's not disruptive to the the process.

West: Yes, Sir.

Vanis: Ok. All right, on February 1<sup>st</sup> 2013 at 1302 hours I received a phone call from you. During that phone call you told me that you needed to you wanted to be clear on your previous interview which happened on ah January 23<sup>rd</sup> of this year you told me that you hadn't witnessed Captain Hunter lick Charles Cella's head or neck

on the morning of August 4<sup>th</sup>, 2012 that you'd only seen her give him a a wet willie. Ahm does that sound accurate?

West: Ahm...I really...

Vanis: I mean does that sound like like the gist of what you told me?

West: To some sort I don't remember saying I don't...or I did not see her lick his head I don't remember saying those exact words

Vanis: It was I think it was more to the effect that you didn't see her lick him

West: (unintelligible)

Vanis: I apologize. Can you tell me then exactly on the morning of August 4<sup>th</sup>, 2012 from the time that you found out that ahm Charles Cella had hurt himself take me step by step all the way through to the time you leave the captains' office the supervis or the Shift Commander's office please.

West: Ok. Ahm it was so you want me to start from the beginning of the incident like when he injured himself

Vanis: Please exactly just

West: Ok

Vanis: step by step

West: Ok yes, Sir. I was in the chow hall I don't recall if I was eating breakfast or just finishing up breakfast you know and Officer Cella walked into the chow hall from the kitchen area the back kitchen area where they supply the food and stuff stating that he had slipped or that he had injured himself I don't recall if he said he slipped but I remember he said he injured his knee and ahm and then he was like oh I'll be ok I said no I told him have a seat, let's wait a couple minutes see if it gets better...

Vanis: Ok

West: ahm...waited a couple minutes I told him you know he stood up I said how you feeling he was like he told me it was hurting so I believe we went to the the ahm the clinic Unit 11 we went to the clinic so that medics could check him out

Vanis: Ok

West: when they checked him out they decided that his knee was swollen and that he needed to go to the Emergency Room.

Vanis: Ok

West: From there we went to the Shift Commander's office

Vanis: Ok

West: where we began where I began doing paperwork a lot of back and forth I was sitting down doing paperwork at my desk and then I'd have to go back into the captain's area which is in the you know I know I've already told this I don't know if I have to say it on the record off of the it was all in the Shift Commander's office but the captain's office is in another room

Vanis: Ok

West: so I was back and forth a lot and ahm I don't remember if I was sitting or standing but I do remember as in my previous statements that she did lick hi the back of his head.

Vanis: Ok.

West: And ahm...

Vanis: Tell me exactly what you saw between between Charles Cella and Captain Hunter what did you observe between the two of them?

West: That's what I observed. I mean as far as them together you know I mean she was over in that area, she bent over, she licked the back of his head while he was sitting he jolted like and he looked like he was in pain and I believe that was the time that I told her to just leave him alone cause the guy's injured.

Vanis: Ok. So when you called me and told me that you didn't see her lick him because I made it very clear on the phone I had you repeat it to me that you did not see Captain Hunter lick him. Where did that come from?

West: Well at the time I was injured ahm I had just injured my back that Saturday previously ahm I was at home for an extended period of time I was poppin pain meds and I honestly I do not recall telling you exactly that I did not see her lick the back of his head. I

remember I expressed doubt in the fact that I saw her licking the head and I also know that I was under a lot of pressure you know I'm thinkin at home that you know I'm a subordinate here I'm talkin about a captain I'm thinkin this could be retaliation against me because once again I'm a sergeant, she's a captain who I'm the low guy on the totem pole and I'm gonna be railroaded.

Vanis: Were you prescribed the pain meds?

West: Yes, Sir. I brought em with me today.

Vanis: Ok

West: Ahm...ah I can never remember the name of this - [REDACTED] which I don't know if it's a narcotic but also [REDACTED] which I believe that's the generic name for I can't say it...that's just the [REDACTED]

Vanis: All right I'm gonna photograph these real quick

West: Yes, Sir...(pause)...you want me to hold em for you?

Vanis: No

West: They said I believe that name right there next to (unintelligible) just so you know

Thompson: Think we'll keep them

Vanis: Ok

Thompson: (whispering) Did you note the - yes, you did...one twenty six

Vanis: (unintelligible)

Thompson: (whispering) Same there...(pause) I think you can keep that for your file if you want.

Vanis: Ok, thank you. (pause) Ok, so let's get back to where we were. So you don't recall calling me?

West: No no no that's not what I said. I do recall calling you I do not remember making that exact statement. I said I I remember stating that there was doubt whether I saw a head that the fact that she licked him or not. I do not recall stating no I did not see her lick him.

Vanis: What did you see?

West: As my statements say and as I just said that the fact that I did see her lick Officer Cella the back of Officer Cella's head.

Vanis: Did you...see her give him a ah a wet willie

West: No, Sir

Vanis: stick her finger in his ear

West: No Sir

Vanis: because when you called me, you did in fact say that you saw her give him a wet willie.

West: I I believe what I said was I wasn't sure whether she licked him behind the head or gave him a wet willie.

Vanis: No, Sir. That's not what you said cause you repeated it to me when I showed up at your house later that day.

West: Ok

Vanis: Do you remember me coming to your house later that day?

West: Yes but I mean

Vanis: Do you remember talking to me then?

West: Yes, I do. But I

Vanis: Do you remember what you told me then?

West: No, Sir. I I was confused with the meds I guess I mean but the bottom line is that I do not recall stating yea or nay to either one.

Vanis: So your statement is that you saw her lick Cella's head.

West: Yes, Sir.

Vanis: You saw Captain Hunter lick Cella's head.

West: Yes Sir.

Vanis: And you're sure?

West: Yes, Sir.

Vanis: All right. Has anybody spoken to you about this investigation other than your your representative here?

West: No, Sir.

Vanis: What about Captain Hunter's investigation?

West: I don't know anything about Captain Hunter's investigation.

Vanis: The one that you were - these.

West: No, Sir.

Vanis: That this is

West: No, Sir.

Vanis: Has Captain Hunter talked to you about your testimony in there?

West: No, Sir.

Vanis: Has Charles Cella talked to you about your testimony?

West: No, Sir.

Vanis: Has...Sergeant Johnson spoken to you about your testimony?

West: No, Sir.

Vanis: Now I didn't get a chance to review this ahm but I will say I will say this and it's on the record. I've been a law enforcement officer for nine years. I've seen a lot of people that were intoxicated, high, otherwise. You did not appear that way when I spoke to you. (pause) So you're - what you're saying right now is you did call me.

West: Yes, Sir.

Vanis: But you're not sure of what you told me because you were taking these narcotics. Is that that's a yes or no is that is that your statement?

West: Yes, Sir. I was confused at the time. Yes, Sir.

Vanis: Ok. Ahm so do you think you violated Volusia County Department of Corrections policy 102.09, Subsection C?

West: No.

Vanis: How about Volusia County Merit Rule 86.453, Subsection 12?

West: No.

Vanis: Knowingly give false statements to supervisor, or officials of the public

West: No, Sir.

Vanis: Volusia County Merit Rules 86.453, Subsection 8 which states criminal, dishonest or other conduct which interferes with the effective job performance or has an adverse effect on the efficiency on County service.

West: No, Sir.

Vanis: Do you have anything else you'd like to add?

West: No, Sir.

Vanis: All right the time is now...1819 and we're gonna be off the record.

(Recording devices off)