



AFFIDAVIT OF SERGEANT KARL A. GARDNER  
VERMONT STATE POLICE  
STATE OF VERMONT

ENTERED

JUN 30 2017

Vermont Superior  
Franklin Inj



CASE#: 17A406476

FRANKLIN COUNTY, ss.

NOW COMES Detective Sergeant Karl A. Gardner, affiant(s), being duly sworn and on oath, deposes and says probable cause to believe that Joel Daugreilh (04/29/1986) has committed the offense(s) of Simple Assault. A Violation of Title 13, Vermont Statutes Annotated Section 1023.

1. I am a law enforcement officer certified by the Vermont Criminal Justice Training Council and have been since November of 2005. I have been a Trooper with the Vermont State Police since July of 2005 and currently hold the position of Detective Sergeant at the St. Johnsbury barracks within the Bureau of Criminal Investigations.
2. On 11/30/2017, I was advised by Detective Lieutenant Kirk Cooper of an incident that occurred at the St. Albans Police Department. Lt. Cooper told me that during an arrest of a subject a few days prior, a member of the St. Albans Police Department used force on a subject that was in custody in one of the holding cells at the police department. Lt. Cooper advised that the Chief of the police department requested an independent State Police investigation into the incident due to the circumstances.
3. Shortly after speaking with Lt. Cooper, I called Lieutenant Ben Couture of the St. Albans Police Department. While speaking with Lt. Couture, he advised that he was with the Police Chief and that they were requesting an independent investigation into the incident. Lt. Couture told me that he had already made copies of the videos from the incident along with all reports associated with the case and that they could be picked up at the police department.
4. On 12/01/17, I traveled to the St. Albans Police Department and met with Lt. Couture in person. Lt. Couture advised me that their own use of force review system captured the possible use of force violation and that the alleged "victim" had yet to make a formal complaint about the use of force. Lt. Couture told me that the "victim" was currently incarcerated at the Northwest Correctional Facility and the officer involved in the incident was currently on paid administrative leave until their own internal investigation was complete. Lt. Couture identified the "victim" as Nathan Willey (04/19/1999) and identified the Officer involved as Corporal Joel Daugreilh. I was advised that the incident in question took place on 11/26/17 in the City of St. Albans and that Willey was taken into custody for 1st Degree Aggravated Domestic Assault, Unlawful Restraint and Interference with Access to Emergency Services. Lt. Couture provided me with two CD's at this time containing holding cell video and also police body camera video from Cpl. Daugreilh of the incident in question. At this time I was also given a case file containing the law incident table (Reports and Radio Logs), along with use of force and reviews from the St. Albans Police Department.

5. On 12/05/17 at approximately 1407 hours, I met with Nathan Willey at the Northwest Correctional Facility in St. Albans, VT. Also present for the interview was Public Defender Rosie Chase and a legal aid from the public defender's office. Prior to the interview, I explained to Willey that I was not there to discuss the circumstances of his arrest and that he was not required to speak with me. I explained to Willey that I was investigating a possible use of force issue that had occurred after his arrest and that I was looking to talk with him as a potential victim. Willey acknowledged that he understood and agreed to speak with me.
6. I then asked Willey if he had any idea why I would be looking to speak with him. Willey told me that he had a pretty good idea. I asked Willey if he was under the influence of anything the night that he was arrested, because I wanted to make sure that he had a clear recollection of what took place the night of 11/26/17. Willey told me that that he was not under the influence of anything that night and stated that he wasn't "tripping".
7. Willey told me that while at the residence where he was arrested he recalled two or three different officers that were present. Willey stated that he remembered Sgt. Wetherby, the "British officer" and "another cop" that were present at the residence. Willey stated that he was handcuffed at the scene and he was then transported back to the police department in the back of cruiser. Willey stated that there were no issues during the ride back to the police department. Willey estimated the ride back to the police department was approximately 2 minutes.
8. Willey stated that once back at the police department he was placed into a holding cell where he was handcuffed in front of his body and then shackled to the bench. Willey stated that he was not able to stand up because of how he was handcuffed and shackled. Willey's recollection was that his feet were restrained by the shackles, which differs from the video and how the restraint process was explained to me. I then asked Willey what his demeanor was to the officers that were at the police department. Willey stated that he was mouthy or disruptive but he never threatened to hurt anyone or made any threats. Willey further described his demeanor as "insulting" but that he was never "aggressive or threatening". Willey further stated that he was trying to annoy the officers.
9. Willey told me that he was complaining about how tight his handcuffs were while he was sitting in the cell and that no one would answer him. Willey stated that he recalled two officers came to check on him eventually and they both told him that the handcuffs were not tight and that they never adjusted them for him. Willey thought that Sgt. Tally was the officer that checked on the tightness of his handcuffs. Willey stated that he remembered interacting with 4-5 different officers during his time at the police department while in custody. Willey then told me that he became agitated because the handcuffs were so tight and that he started to kick the holding cell door. Willey said that he kicked the door approximately 5-10 times and stated that he did not kick it hard. Willey stated that the door then swung open as a result of the kicking. Willey stated that he was not able to stand up during this time because of the handcuffs and shackles. Willey stated that a few seconds later the "British" officer appeared in the doorway and that he told him he was going to "mace him". Willey said that he then pulled his hand up to his face and that he lifted his legs to avoid getting maced and he "begged" the officer not to spray him. Willey said that the officer then "ripped his (Willey's) hands down" so that he could pepper spray him in the face. Willey said that other than the officer "ripping" his hands away he did not remember any other physical strikes. Willey stated

that he was then pepper sprayed at close range. Willey told me that he was unsure exactly why the officer sprayed him and again identified the officer as the "British" guy. It should be noted that Corporal Daugreilh speaks with an English accent. Willey estimated that he was in custody for approximately 10-15 minutes before the pepper spray incident took place.

10. Willey stated that he then remembered sitting in the cell yelling for help for approximately 20 minutes until medical staff of EMS arrived to assist him. Willey then showed me a couple of marks on his right wrist and hand from the handcuffs and from what he thought might have been caused by Officer Daugreilh's fingernail. Willey also showed me a mark or abrasion on his left wrist that he said were from the handcuffs. All of the injuries were documented and photographed by me at the correctional facility. Willey said that he thought the injuries to his hand happened when the officer ripped his hands down or when he was trying to rub his eyes after being pepper sprayed. Willey told me that it hurt when he was pepper sprayed "for no reason" and also that the marks on his hands from the handcuffs also caused pain".
11. Willey stated that after he was treated by medical personnel he was compliant and that Officer Daugreilh came back and spoke with him. Willey said that Daugreilh told him he was only the second person he had ever pepper sprayed and that he also told him that he got pepper sprayed too. Willey stated that there were no other incidents that took place that night and that he was later transported to the Northwest Correctional Center. Willey told me that he did not feel like he caused any damage to the cell door or any property at the police department.
12. On 12/05/17, I again met with Lt. Couture at the St. Albans Police Department. I told Lt. Couture that I needed to pick up an additional CD that was made/copied with further audio and video from the 11/26/17 incident. I also told Lt. Couture that I was interested in looking at the holding cell where the incident took place, after I reviewed the video footage of the incident.
13. Once at the police department I received the CD containing the audio/video from Lt. Couture. Lt. Couture then escorted me to the processing and holding area where the incident occurred. Once in the processing room, I observed two small holding cells adjacent to the processing area. Lt. Couture showed me the holding cell that was closest to the DUI processing machine and identified it as the holding cell where the incident occurred.
14. Lt. Couture then opened the door and showed me the interior and exterior of the cell door. I asked Lt. Couture if he ever witnessed anyone kick open either cell door in the past. Lt. Couture advised that he saw the door kicked open by people in custody in the past, although he noted that it was not a frequent occurrence. Lt. Couture advised that the holding cell framing was not reinforced to his knowledge and that if the door is kicked hard enough, the door frame bows and the door will open. Lt. Couture showed me a number of cracks and stress fractures in the dry wall around the door frame. Lt. Couture told me that the cracks or deficiencies were present prior to the 11/26/17 incident.
15. I then asked LT. Couture what the standard operating procedure at the Police Department was for people that were in custody inside one of the holding cells and asked Lt. Couture to place me in the position so that I was aware of the mobility of the person in custody.

Lt. Couture then took out his handcuffs and handcuffed me in front of my torso. Lt. Couture then asked me to sit on the bench. Lt. Couture then picked up a leg shackle that was attached to a metal bar under the bench and secured the free end to the center of the handcuffs that were attached to my wrists. Lt. Couture stated that this was how all officers were asked to secure people in the cell. Lt. Couture also confirmed this was how Nathan Willey was secured in the cell on 11/26/17 during the incident in question. Lt. Couture told me that an email describing this standard operating procedure was sent out to all sworn officers. It should be noted that Lt. Couture was not sure of the exact date that the email detailing this restraint technique was distributed.

16. While in the cell restrained as Lt. Couture demonstrated, I was unable to stand up from the bench and was only able to lift my buttocks off the bench slightly. I estimated that I could lift my buttocks off the bench approximately 8-12 inches. I also noted that I could slightly slide side to side on the bench but was obstructed from mobility based on the length of the leg shackle chain. I was also not unable to lift my hands past my mid abdominal area due to the restraint system.
17. Lt. Couture told me that there was no damage to the lock on the cell door and that the Police Department did not incur any monetary damages. Lt. Couture also showed me a small piece of molding between the two cell doors. The molding was in its proper place but was easily removed by simply kicking or manipulating it with your fingers. Lt. Couture told me that the piece of molding commonly falls off and it was also damaged prior to the incident on 11/26/17.
18. I then asked Lt. Couture why the Police Department had gone to the restraint system that they currently use for people that were in the cells. Lt. Couture pointed to a number of pieces of graffiti that were carved into the interior of the cell in the paint and stated that it was also because the door was kicked open in the past. Lt. Couture said this was a safer way to ensure that no one could escape from the cell if it were to be kicked open.
19. On 12/06/17 at approximately 1330 hours, I interviewed Corporal Joel DAUGREILH at the St Albans State Police Barracks. Prior to the interview, I read DAUGREILH his Miranda warnings. DAUGREILH advised that he understood his rights and advised that he wanted to speak with me. DAUGREILH signed the Miranda form in my presence at approximately 1335 hours. It should be noted that this interview was recorded via digital recorder.
20. I explained to DAUGREILH that I was interested in speaking with him about his interaction with Nathan Willey following his arrest on 11/26/17 and any information or history regarding Willey and his interactions with law enforcement in the past.
21. DAUGREILH stated that he was dispatched to Nathan Willey's residence after Willey's father called to report that Nathan held his girlfriend against her will inside the residence. Dispatch told DAUGREILH that the parties were separated but that a police response was still requested. I then explained to DAUGREILH that I was not concerned about details of the call simply any background history pertaining to the defendant due to circumstances of the call and any officer safety issues.
22. DAUGREILH stated that during his previous interactions with Willey they were for pretty serious offenses to include felony domestic assault, first degree unlawful restraint and interference with access to emergency services. DAUGREILH stated that he knew

that Willey had a violent background, although he had never known Willey to be assaultive towards him, he had been aggressive towards him during past interactions. DAUGREILH described the aggressive behavior as not being cooperative, "fuck the police" mentality or attitude and just not being a fan of law enforcement. DAUGREILH stated that Willey used to be friendly to law enforcement when he was younger but that he became an addict and changed his perspective of the police.

23. DAUGREILH stated that when he responded to the residence for the call on 11/26/17, Sgt. Wetherby was already on scene talking to Willey. DAUGREILH stated that as soon as he walked into the residence Willey became aggressive, saying that he did not want DAUGREILH inside and told him he had to leave. Willey stated that he only wanted to speak with Sgt. Wetherby and didn't want DAUGREILH at the residence. DAUGREILH described Willey's demeanor as "ok", and said that he did not feel Willey was going to be assaultive at the time. DAUGREILH stated that Willey was argumentative and taken into custody without incident. DAUGREILH stated that Willey was still argumentative once he was taken into custody and said that he didn't understand why he was under arrest. DAUGREILH stated that Willey demanded phone calls and to speak with his mother and father and was also demanding cigarettes. DAUGREILH stated that he told Willey that if he was cooperative during the process he would make sure he got him a cigarette.
24. DAUGREILH stated that Willey was then transported to the station. DAUGREILH said that Willey was in custody for approximately an hour and half before the incident happened. DAUGREILH said that for almost the entirety of the hour and a half, Willey was disruptive. DAUGREILH went on to describe the restraint system that was put out at the direction of supervisors of the St Albans Police Department. DAUGREILH said that Willey was handcuffed in the front, and shackled to a bar that is under the bench in the holding cell. DAUGREILH said that everyone that is placed in the cell is handcuffed and shackled in the same manner whether they are disruptive or not. DAUGREILH said that Willey was continually clanging the chains to make noise, to the point that DAUGREILH checked on Willey a number of times to make sure he was ok.
25. DAUGREILH told me that Willey was taken into custody initially because there was an active arrest warrant for him. DAUGREILH said that Willey was not told that he was under arrest due to the domestic dispute at this time. DAUGREILH stated that Willey's demeanor changed once he was told that he was under arrest for the domestic assault charges and that he was going to jail. DAUGREILH said that due to Willey's violent tendencies it was decided to arrest him on the warrant and tell him about the domestic charges later. DAUGREILH said that they felt it would be a safer environment to tell him about the new charges once bail and conditions had already been set by a judge. DAUGREILH went on to say that Willey's demeanor changed once he was told of the new charges, and described him as being louder and demanding of phone calls.
26. DAUGREILH said that he continued to check on Willey to make sure he didn't need anything each time he became disruptive. DAUGREILH said that Willey started to kick the door to get his attention and that he kept asking to use the bathroom. DAUGREILH said that he took Willey to the bathroom once and a short time later Willey again was asking to use the bathroom. Willey told DAUGREILH that this time he felt like he was going to throw up. DAUGREILH said that Willey did not seem like he was going to throw up and that he explained this to him at which point Willey stated that he was

“high” on LSD. DAUGREILH said that he told Willey that he did not seem like he was impaired. DAUGREILH stated that after this brief conversation, he then walked away from the cell. DAUGREILH stated that again a few minutes later, Willey began to kick the cell door. DAUGREILH said that when he returned to the cell, Willey told him that he had thrown up and that he noticed a small amount of bile or spit on the floor. DAUGREILH said that he told Willey that he would clean the cell once they were done and that he offered him a drink to which Willey refused. DAUGREILH estimated that he checked on Willey and spoke with him no less than 6-8 times during the hour and half time period and again stated that Willey’s disruptive behavior was escalating. DAUGREILH said that he was always cordial to Willey and he continued to explain the circumstances and process to him.

27. DAUGREILH stated that a few minutes elapsed until Willey again began to kick the door. DAUGREILH said that he again approached the cell and asked Willey what he needed. DAUGREILH said that this time Willey was requesting to speak with his little brother. DAUGREILH said that he knew Willey’s little brother was already in bed and that he told him he did not think it was a good idea and to stop kicking the door.
28. DAUGREILH said that he then began to walk away from the cell and that Willey began kicking the door extremely hard, multiple times. DAUGREILH said that as he began to turn around, the cell door swung open, which he described as a heavy duty steel core door that isn’t easily opened. DAUGREILH said that the door was broken open and that Willey was subsequently charged with unlawful mischief because he caused damage to the door as well as the wall when it swung open. DAUGREILH said that at this point, Willey had been escalating his demeanor for about an hour and a half and he wasn’t showing any signs of calming down, especially since he now knew he could break the door open. DAUGREILH said that he was also not sure how secure the cell would be since it was broken open. DAUGREILH said that at this point he took his “OC” also known as pepper spray out before Willey said “I’m not doing anything”, and turned his face away so that he would not be affected by the pepper spray. DAUGREILH said that this was common in his experience because no one wants to be sprayed. DAUGREILH said that due to the escalating behavior, past interactions with Willey, because he thought that he was going to continue to damage police department property and because he thought Willey might become assaultive, DAUGREILH made the decision to use OC spray on him.
29. DAUGREILH said that he then pushed Willey’s head back and sprayed him with OC. DAUGREILH said that unfortunately he was a little too close and that he (DAUGREILH) was also hit with the OC spray. DAUGREILH said that he then walked out of the cell, closed the door and DAUGREILH stated that he cursed a little bit because of the self-contamination. DAUGREILH said that he then walked up front to his dispatch and alerted them to contact EMS because he just used his OC spray. DAUGREILH said that he was effected in both eyes from the back spray and he then felt his way to the bathroom to decontaminate himself before he notified his supervisor that he deployed OC spray at the police department.
30. DAUGREILH said that both Sgt. Tally and EMS arrived at the police department at about the same time. DAUGREILH said that he continued to decontaminate himself until the effects of the OC spray subsided. DAUGREILH said that once he and Willey were both decontaminated, he went back to the processing room and had a conversation

with Willey about the incident. DAUGREILH said that Willey was much more calm and compliant after the OC spray was deployed. DAUGREILH said that he took the time to explain to Willey why he felt the use of the OC was justified. DAUGREILH stated that Willey asked him why his (DAUGREILH) eyes were red and that he explained to him that he was also sprayed with the OC spray. DAUGREILH said that Willey was extremely understanding and also apologetic after the incident. DAUGREILH told me that Sgt. Tally later processed Willey and also read him his OC warnings, before Willey was transported to the NW Correctional Facility.

31. DAUGREILH went on to say that he regretted that he was as close to Willey as he was at the time that he deployed OC spray, due to the back spray and he also stated that he did not receive any training on OC use since graduating the academy. DAUGREILH said that he did not remember the three-foot requirement or recommendation from his initial training. DAUGREILH said that he did not feel that he did anything wrong with his use of force other than the distance away from Willey at the time and thought that this issue was caused by lack of annual training. DAUGREILH said that the PD trains in other use of force techniques frequently but never with OC spray. DAUGREILH stated that he was aware of other similar incidents that happened in the cell with other officers deploying OC spray on people in custody and he did not believe he was doing anything wrong. DAUGREILH also stated that his direct supervisor reviewed the incident and found it to be reasonable. DAUGREILH stated that Sgt. Tally recommended remedial training due to the distance from which the OC was deployed. DAUGREILH later advised that he was the only officer in the office at the time he deployed OC spray on Willey. It should be noted that Sgt. Tally approved the use of force in this case as "reasonable", per the St. Albans Police Department chain of review process.
32. Later during the interview I asked DAUGREILH how long he was employed by the St. Albans Police Department and asked him if he was aware of anyone else kicking the cell door open during that time. DAUGREILH told me that he has been employed by the police department for approximately 5 years and he has heard of other people kicking the door open in the past. DAUGREILH stated that he did not personally see it happen but his understanding was that other officers had a similar reaction to the door being kicked open.
33. At the end of the interview, DAUGREILH reiterated all of the reasons and circumstances that he chose to use the OC spray on Willey while he was in the cell:
  - a. An hour and half of aggressive and escalating behavior
  - b. Past interactions with Willey in which Willey's been aggressive towards him
  - c. Prior knowledge of Willey's dislike of the police
  - d. Kicking the door with such force that it ended up breaking
  - e. No belief that the disruptive behavior was going to subside
  - f. The belief that the cell door was broken and not working
  - g. Already assaulted two people earlier in the day (girlfriend and father)
34. Shortly after obtaining the video footage from the incident, I reviewed it while at the St. Albans State Police barracks. The body camera video starts as Corporal Daugreilh is seated at his computer. Cpl. Daugreilh then gets up from his seat and walks back to the holding cell in the processing area at the St. Albans Police Department. The video

footage and surroundings are consistent with what I observed during prior visits to the police department and during this investigation. During this portion of the video (approximately 30 seconds in) there is not any audio. In the video it appears that Daugreilh has a brief conversation or interaction with Willey who is inside the cell. During this interaction the cell door remained closed.

35. At approximately 25 seconds into the video, Daugreilh turns and walked back towards his computer in the adjacent room. At approximately 27 seconds into the video, Daugreilh turned abruptly and hurried back towards the cell where Willey was secured inside. When Daugreilh arrived at the cell, the door was open and Willey was seen sitting on the bench. Daugreilh approached Willey, who said, "I'm not doing anything" three separate times. Willey was seated on the bench at this time and did not appear to be resisting. In the video, Willey dropped his head and turned his head to the right, away from Daugreilh's position.
36. Daugreilh then uses his left hand to grab Willey's head, by his forehead or hair and forcibly pushes Willey's head back against the cell wall. Daugreilh then said, "Do not kick my door", and administered his OC spray into Willey's eyes from a close distance. Willey then started to cry, and Daugreilh exited the cell. In the holding cell video, it was evident that both Willey and Daugreilh were both affected by the spray. In the audio, there does not appear to be any verbal commands or verbal warnings given by Daugreilh prior to deploying the OC spray. Daugreilh then exited the cell backwards and said "ah, fucking twat". It was not clear if the derogatory comments were directed at Willey, or because Daugreilh was also incapacitated by the OC spray deployment.
37. Daugreilh then walked back towards the dispatch center and asked for EMS to respond. As Daugreilh was walking towards the bathroom, you can hear Willey state hysterically, "ahhh, why did you do that???". Daugreilh then walked into the bathroom and started to decontaminate himself from the exposure to the OC spray. The body camera footage and the cell video footage is consistent in both. It should be noted, there was no audio associated with the holding cell camera.
38. On 06/23/20, I was provided with hand written notes from a conversation that took place between former Assistant Attorney General Evan Meenan and Drew Bloom of the Vermont Criminal Justice Training Council on 05/08/2018. Mr. Bloom was previously asked to review the use of force that was used by Cpl. Daugreilh on Mr. Willey in the holding cell of the St. Albans Police Department. During the conversation, Bloom told Meenan initially that he couldn't formulate an opinion on "reasonable or unreasonable" and later stated that it was "reasonable" because he felt like Willey was "active resistance".
39. On 06/23/20, I received a report from the Attorney Generals office regarding a review of the use of force in question. The independent review was completed by "Steven Ijames Police Training and Consulting".
40. After reviewing all of the material that was provided, Mr. Ijames came to the following conclusion on the use of force used by Cpl. Daugreilh directed at the victim. "The decision by Officer Daugreilh to use OC spray on Mr. Nathan Willey was inappropriate and inconsistent with contemporary and professional police training, policy, and practice" and "the manner of OC spray used by Officer Joel Daugreilh against Mr. Nathan Willey




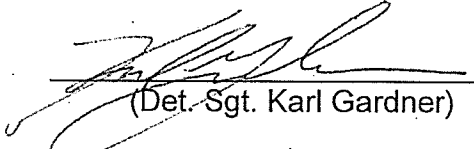
was inconsistent with contemporary and professional police training, policy and practice”.

41. Due to the circumstances of the OC deployment, the lack of verbal commands and the manner in which Willey was restrained and immobilized, probable cause exists to believe that Daugreilh committed the crime of Simple Assault in violation of Title 13 V.S.A Section 1023.

Subscribed and sworn to before me on,

Wednesday, June 24, 2020

  
\_\_\_\_\_  
(Judicial Officer / Notary Public)

  
\_\_\_\_\_  
(Det. Sgt. Karl Gardner)  
Wednesday, June 24, 2020