

**MISCONDUCT REPORT**

Prisoner Number: 192744	Prisoner Name: Colvin	Facility Code: MCF	Lock: 3-234A	Violation Date: 07/18/2014
Time and Place of Violation: 1040 Housing Unit 3 - Base		Contraband Removal Record Provided to Prisoner? <input type="checkbox"/> Yes    Date _____ <input checked="" type="checkbox"/> N/A		
Misconduct Class: <input checked="" type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III		Charge(s): Threatening Behavior		
Describe Violation (If contraband involved, describe in detail; identify any other employee witnesses): At 1040 while talking with Prisoner Colvin #192744 (3-234A) he became very angry and with his fists closed from approximately 2 feet away screamed at me, "Fuck you! You ain't shit, you ain't nobody to me. I'll fuck you up!" After prisoner stated this he was told to calm down. He continued to yell and with his fist closed and advanced towards me. Taser was deployed by Officer Morefield.				
ID'd by Unit Count Boards and Daily Unit Contact.				
Reporting Staff Member's Name (Print) B. West		Reporting Staff Member's Signature		Date and Time Written 07/18/2014 1120
<b>REVIEW</b>				
Location/Verification/Condition of Evidence:				
Elevated to Class I at review: <input type="checkbox"/> No <input type="checkbox"/> Yes		If "yes", explain reason:		
<b>COMPLETE THIS SECTION ONLY FOR REVIEW OF CLASS I MISCONDUCT</b>				
Status Pending Hearing: <input type="checkbox"/> Bond <input type="checkbox"/> Segregation <input type="checkbox"/> Confinement to Cell/Room <input type="checkbox"/> Other				
Reason if Non-Bond: <input type="checkbox"/> Non-Bond List <input type="checkbox"/> Bond Revoked (must give reason)				
Date and Time Given this Status:		Who Notified in Housing Unit of Status:		
Hearing Investigator Requested? <input type="checkbox"/> No <input type="checkbox"/> Yes		Witnesses Requested? <input type="checkbox"/> No <input type="checkbox"/> Yes		
Relevant Documents Requested? <input type="checkbox"/> No <input type="checkbox"/> Yes		If yes, list:		
Additional Comments:		Prisoner Waives 24 Hour Notice of Hearing? <input type="checkbox"/> No <input type="checkbox"/> Yes		
Reviewing Officer's Name (Print)		Reviewing Officer's Signature		Review Date and Time
I have received a copy of this report. My signature does not necessarily mean that I agree with the report. <input checked="" type="checkbox"/> Prisoner refused to sign. Copy given to prisoner.		Prisoner's Signature		Date
<b>WAIVER OF CLASS II OR III HEARING</b>				
I understand I have a right to a hearing. I waive my right to a hearing and plead guilty to all charges. I also waive my right to appeal and accept the sanctions imposed.		Prisoner's Signature		Date
<b>SANCTIONS IMPOSED (Hearing Investigator enters begin and end dates for Class II misconducts)</b>				
_____ Days Toplock	Begins: _____	Ends: _____	<input type="checkbox"/> Counseling/Reprimand (Class III only)	
_____ Days Loss of Privileges	Begins: _____	Ends: _____	<input type="checkbox"/> \$ _____ Restitution (Class II only)	
_____ Hours Extra Duty	Begins: _____	Ends: _____		
Property Disposition If Applicable: _____				
Employee Accepting Plea and Imposing Sanction (Print)		Employee's Signature		Date
Hearing Investigator's Name (Print)		Hearing Investigator's Signature		Date



**CLASS I MISCONDUCT HEARING REPORT PAGE 1 OF 3**

Prisoner Number 192744	Prisoner Name COLVIN	Facility Code MCF	Lock SEG	Violation Date 7.18.14
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Charges: **THREATENING BEHAVIOR** Pleas: **NOT GUILTY**

Misconduct Report read to and discussed with Prisoner  (check if applies)  
Investigation read to and discussed with Prisoner  (check if applies)

**EVIDENCE/STATEMENTS IN ADDITION TO MISCONDUCT REPORT:**

The prisoner is present for the hearing. The investigation consists of seventeen page statement/evidence and witness request from the prisoner, one page statements from prisoners Terry and Davis, RUM Winger and Officers Chandler and Crawford. The prisoner had presented questions for Officers Morefield and McDonald which were not responded to.

I viewed a unit video with PC West and RUM Winger present which showed the prisoner at the desk, RUM Winger was to his left and PC West was to his left and an officer behind the desk stood and then the prisoner was seen going to the ground apparently from being tased. This video is not shown to the prisoner and cannot be provided to him as such would reveal video surveillance capabilities and be detrimental to facility safety and security. RUM Winger said that the prisoner was at the desk talking to her about the bleach issue and the prisoner became loud and agitated and he told West, "Fuck you, I will fuck you up," and she was trying to get the prisoner's attention away from PC West and telling the prisoner to calm down. PC West said the prisoner told him he would fuck him up.

I also viewed a taser video which showed the prisoner with the two laser aim points on his chest. Two voices were heard to say, "Calm down," and then the prisoner was tased. It appeared his hands were clenched and when he went to the ground he tried to pull the taser prongs out. I didn't notice anything in his hands and then the Reporting Officer reactivated the taser.

The prisoner says he walked to the desk and asked Officer Morefield if he could call Ms. Crawford as he needed to talk to her and Morefield began to rub his head and angrily told him he would contact her to see if she was busy and to call him out. RUM Winger was standing behind and to the left of Morefield and he began to speak to her about unit bleach dispensing and as the discussion was concluding PC West told him he needed to quit complaining to everyone about what goes on in 3-Unit and do his time. He told West he was not talking to him and West began to yell at him telling him he was tired of his shit and he told West he shouldn't talk to him like that. Morefield, who was sitting in front of him pulled his taser and aimed it at him. His hands were on the brick partition surrounding the desk and he said to Morefield, "What, you're about to tase me?" PC West shouted, "Shoot him," and he was tased by Morefield. He was facing Morefield at the desk and not PC West. He had not advanced on West and if he had, he would have been hit in the left side or back with the taser prongs. If he had done what is alleged no one would be telling him to calm down but staff would have come from behind the desk to restrain him. He asserts that this misconduct was written to cover up the fact PC West told Morefield to shoot him (with the taser) and Morefield tasered him without just cause and in retaliation for grievances he has written.

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**REASON FOR FINDING:**

According to the Misconduct Report while PC West was talking to Colvin he became very angry and with his fists closed yelled at him from two feet away, "Fuck you. You ain't shit, you ain't nobody to me. I'll fuck you up." The prisoner was told to calm down and he continued to yell and advanced towards PC West and Officer Morefield tased him. The prisoner's version of events is reflected above and in his written statement. He contends PC West told Morefield to shoot him (with his taser) and Morefield tased him without cause and the ticket was written to cover up such. The function and intent of this hearing is not pass judgement on whether there was a proper or improper use of a taser in this incident. The tasing of the prisoner is only addressed as being part of the incident and raised by prisoner in his defense.


Not that much could be discerned from the unit video because of distance and the fact there other prisoners were out and about and passing by the desk. It could not be discerned whether the prisoner's hands were clenched into fists or he turned towards PC West. I did not view any abrupt actions of the prisoner that might indicate he lunged or tried to get at PC West. There was no audio track on this video. Part of the allegation is that the prisoner's hands were clenched into fists and the prisoner said he had some toilet paper in one hand and his hands were no the brick partition surrounding the desk. There is no indication that the prisoner made to strike or prepared to strike PC West.

The prisoner says he had tissue in one hand. Such was not seen on the taser video when he was on the floor trying to remove the taser prongs from his chest. On the way to Segregation Officer Crawford indicates he said to watch his hands as he might have something in them and he never saw any toilet paper in his hand. Officer Chandler indicates Crawford said such and that the prisoner's hands were closed tight in a fist more like people do when they are angry. Crawford also said Colvin was yelling that his fists were clenched and that he was going to kill the mother fuckers that tased him. Officer Chandler did not mention such. What prisoner said about being tased is not part of the charged offense and these statements are only viewed as factors to be considered in assessing the allegations stated in the Misconduct Report and the prisoner's defense.

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FINDINGS	REPORTING CODE	DISPOSITION	(Top lock and LOP Sanctions begin/end at 6:00 am)		
GUILTY	012	10 DAYS LOSS OF PRIVILEGES BEGINS:	7.29.14	ENDS:	8.8.14

Misconduct Hearing Report given to Staff Member by Hearing Officer for Delivery to the Prisoner on: 7.29.14 (check if applies)

Date of Hearing: 7.29.14	Name of Staff Member: L. PHIPPS
Hearing Officer's Name D. J. PALLAS 027	Hearing Officer's Signature 
	Date 7.29.14



**CLASS I MISCONDUCT HEARING REPORT**

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Prisoner Number 192744	Prisoner Name COLVIN	Facility Code MCF	Lock SEG	Violation Date 7.18.14
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Charges:  
**THREATENING BEHAVIOR**

**EVIDENCE/STATEMENTS IN ADDITION TO MISCONDUCT REPORT:**

(continued from page 1)

I told the prisoner I wanted to study his written submission and that I would get back with him later in the day. When the hearing resumed I advised the prisoner that I spoke to Officer McDonald by phone and he said Colvin came from the TV room and was talking to Winger about bleach distribution and Colvin wanted it done one way and RUM Winger told him how it was done in 3-Unit. The prisoner began getting upset with Winger and West told him that was enough and to go back to the TV room. The prisoner became irate and got really loud and stepped towards West with his fists clenched and Officer Morefield told the prisoner to calm down. The prisoner turned towards Morefield and then Morefield tased him. In answer to the prisoner's questions, he said he did not remain seated but stood and was standing when Morefield tased the prisoner. He believes he heard the prisoner say to Morefield, "What, are you going to tase me?" Colvin had turned to face Morefield when Morefield told him to calm down and deployed his taser. He does not know if Morefield was standing or sitting when he tased the prisoner as his focus was on the prisoner.

The prisoner says RUM Winger was not truthful in answering his questions that she did not have a discussion with him at the desk over the bleach distribution issue. He never turned toward or advanced toward PC West. His hands were on the brick partition when Morefield tased him. He made the statement to Morefield about his being about to tase him when PC West told Morefield to shoot him and Morefield tased him. He wasn't any threat at that time. He never told PC West he would fuck him up. He indicates that Morefield did not answer his questions. Some of the prisoner's questions for Officer Morefield were relevant, such as whether the prisoner advanced towards PC West before being tased, whether the prisoner made a statement to Morefield before being tased, whether the prisoner was facing Morefield when Morefield tased him. There are three staff statements as to the desk incident that are more or less consistent and two videos. Officer McDonald said he was the one who stood up so it would appear Morefield was sitting when he tased the prisoner. The taser video shows the prisoner facing straight on to the taser. Officer McDonald indicates he believed the prisoner made the statement to Morefield whether he was going to be tased. It is known that the prisoner came to the desk and was talking to RUM Winger about bleach distribution issues. Morefield's position is known from the unit video. It is found that input from Morefield in this regard is unnecessary to a consideration of the issues herein.

**REASON FOR FINDING:**


(continued from page 1)

The prisoner questions RUM Wingers credibility because he asserts she answered "no" to his question as to whether he was talking to her about bleach distribution issues. The prisoner asked a relative long complex question which might have been misunderstood. When asked if the discussion was at the desk she answered, "N/A." In speaking to RUM Winger while watching the video she said, without any prodding on my part, that the prisoner came to the desk to talk to her about the bleach issue. I don't know why she answered the question with, "N/A." The fact that the prisoner was at the desk talking to Winger about bleach was corroborated by Officer McDonald. I do not find there to be a basis to believe that RUM Winger was trying to hide the fact of this verbal interaction over the bleach, perhaps she didn't think the question was relevant, although it is not her place, as a witness, to make such a determination. There are two other staff statements that more or less indicate the same. I therefore do not accept the prisoner's contention that RUM Winger is otherwise not credible.

I believe that the prisoner's hands were clenched into fists but there is no indication that the prisoner attempted to strike or made to strike PC West. Just prior to the prisoner being tased the prisoner was facing straight on to the taser and Officer Morefield. There was only about five seconds of taser video before the prisoner was tased. The prisoner was told twice to calm down and was standing with his hands/fists on the brick partition when he was tased. The prisoner was not seen on the unit video to make any abrupt aggressive moves towards PC West. Officer McDonald indicates the prisoner stepped towards PC West but then turned back to Morefield when Morefield pulled his taser. PC West was not heard to tell Morefield, "Shoot him, " on the taser video. I find the evidence does not support the proposition that the prisoner advanced on PC West with the intent to strike or physically abuse him. The prisoner indicates having a verbal exchange with PC West and obviously during such he would have focused his attention on him and been looking at him which would be consistent with Officer McDonald's statement that the prisoner stepped towards PC West.

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Hearing Officer's Name D. J. PALLAS 027	Hearing Officer's Signature 	Date 7.29.14



Prisoner Number 192744	Prisoner Name COLVIN	Facility Code MCF	Lock SEG	Violation Date 7.18.14
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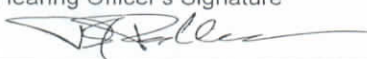
Charges:  
THREATENING BEHAVIOR

**REASON FOR FINDING:**  
(continued from page 1)

The crux of the allegations and main basis for the charge is the prisoner making a verbal threat that he would fuck up PC West. The fact that the prisoner's hands were clenched into fists would be indicative of the prisoner being upset and/or angry at the time of his verbal exchange with PC West. RUM Winger indicates she tried to draw the prisoner's attention back to her and away from PC West and that she told the prisoner to calm down. PC West, RUM Winger and Officer McDonald all indicate that the prisoner told PC West he would fuck him up. Prisoner witness Davis did not indicate if the prisoner said anything to PC West but it is known that he did. Prisoner Terry said he was standing across from the desk by the TV room, he was speaking to the RUM, PC West was there, the prisoner was speaking in a normal tone and was told to keep his voice down and the prisoner did and PC West said, "Shoot him." The taser video reveals that the only thing being said prior to prisoner being tased was to calm down, PC West was not heard to say, "Shoot him," Davis does not address what the prisoner might have said at the time. It appears that PC West intervened when the prisoner was speaking to RUM West but that such was to try and get the prisoner to calm down. I find that the prisoner became upset with PC West and told him he would fuck him up. He thereby expressed an intent to physically harm PC West and I find the prisoner guilty of the charged offense.

The prisoner was advised of findings and sanction and that he would be provided a copy of this report when completed.

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