

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA :

- v. - :

SEALED SUPERSEDING
INDICTMENT

TAJ EVERLY and :
ROSITA ROSSY, :

S1 22 Cr. 550 (NSR)

Defendants. :

- - - - - x

The Grand Jury charges:

OVERVIEW

1. On or about May 28, 2020, TAJ EVERLY, the defendant, a correction officer, assaulted a state inmate in deprivation of the inmate's constitutional right to be free from cruel and unusual punishment. Thereafter, EVERLY and EVERLY's supervisor, ROSITA ROSSY, the defendant, a correction officer and sergeant, attempted to conceal EVERLY's assault by fabricating official reports and directing other correction officers to do the same.

2. At all times relevant to this Indictment, TAJ EVERLY, the defendant, was employed by the New York State Department of Corrections and Community Supervision ("DOCCS") as a correction officer. EVERLY was assigned to the Green Haven Correctional Facility ("Green Haven"), a state prison located in Stormville, New York.

3. At all times relevant to this Indictment, Correction Officer-1 and Correction Officer-2 were employed by DOCCS as correction officers and assigned to Green Haven.

4. At all times relevant to this Indictment, and since at least in or about 2004, ROSITA ROSSY, the defendant, was employed by DOCCS as a correction officer. ROSSY held the rank of sergeant at Green Haven and exercised supervisory authority over other correction officers, including EVERLY, Correction Officer-1, and Correction Officer-2.

5. At all times relevant to this Indictment, Inmate-1 was incarcerated at Green Haven.

THE ASSAULT

6. On or about May 28, 2020, TAJ EVERLY, the defendant, assaulted Inmate-1 at Green Haven. Specifically, EVERLY was stationed near the H Block end gate at Green Haven. As Inmate-1 approached the end gate, EVERLY approached and punched Inmate-1 without provocation, causing both EVERLY and Inmate-1 to fall to the ground (the "Assault").

7. Correction Officer-1 and Correction Officer-2 were present for the Assault, and witnessed TAJ EVERLY, the defendant, use force against Inmate-1.

THE COVER-UP

8. After the Assault, TAJ EVERLY and ROSITA ROSSY, the defendants, attempted to conceal the true facts of the Assault so that it would appear that EVERLY's use of force against Inmate-1 was warranted.

9. Specifically, TAJ EVERLY, the defendant, prepared a Use of Force form (the "Everly UOF Form"), which falsely stated that Inmate-1 threw an "unprovoked punch, hitting [EVERLY] on the left shoulder/neck area", and in response, EVERLY "instinctively [] threw one right hand punch hitting [Inmate-1] in the face" and "then immediately applied a body hold and took [Inmate-1] to the ground."

10. In addition, ROSITA ROSSY, the defendant, directed Correction Officer-1 and Correction Officer-2 to prepare false and misleading reports regarding the Assault. In particular, ROSSY directed Correction Officer-1 and Correction Officer-2 to report that they did not witness EVERLY's use of force against Inmate-1, which ROSSY knew to be false. At ROSSY's direction, Correction Officer-1 and Correction Officer-2 then prepared and submitted false and misleading reports regarding the Assault.

11. Furthermore, ROSITA ROSSY, the defendant, also prepared a Memorandum to Supervisory Officials (the "Rossy Memorandum"), which contained the same false information as the

Everly UOF Form, namely, that Inmate-1 assaulted TAJ EVERLY, the defendant, in the first instance.

COUNT ONE

(Deprivation of Rights Under Color of Law)

12. The allegations contained in paragraphs 1 through 11 of this Indictment are repeated and realleged as if fully set forth within.

13. On or about May 28, 2020, in the Southern District of New York and elsewhere, TAJ EVERLY, the defendant, while acting under color of the laws of the State of New York, did assault Inmate-1, causing bodily injury to Inmate-1, and did thereby willfully deprive Inmate-1 of a right secured and protected by the Constitution and the laws of the United States, that is, the right to be free from excessive force amounting to cruel and unusual punishment, to wit, while working as a correction officer at Green Haven, EVERLY struck Inmate-1 in the face, causing bodily injury to Inmate-1.

(Title 18, United States Code, Section 242.)

COUNT TWO

(Falsification of Records)

14. The allegations contained in paragraphs 1 through 11 of this Indictment are repeated and realleged as if fully set forth within.

15. On or about May 28, 2020, in the Southern District of New York, and elsewhere, TAJ EVERLY, the defendant, knowingly altered, destroyed, mutilated, concealed, covered up, falsified, and made a false entry in a record, document, and tangible object with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department and agency of the United States, to wit, EVERLY prepared the Everly UOF Form with the intent to impede and influence the investigation of the assault of Inmate-1, an inmate at Green Haven, which investigation fell within the jurisdiction of the United States Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation.

(Title 18, United States Code, Section 1519.)

COUNT THREE

(Falsification of Records)

16. The allegations contained in paragraphs 1 through 11 of this Indictment are repeated and realleged as if fully set forth within.

17. On or about May 28, 2020, in the Southern District of New York, and elsewhere, ROSITA ROSSY, the defendant, knowingly altered, destroyed, mutilated, concealed, covered up, falsified, and made a false entry in a record, document, and tangible object

with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department and agency of the United States, and aided and abetted and caused the same, to wit, ROSSY prepared the Rossy Memorandum, and directed Correction Officer-1 and Correction Officer-2 to prepare false and misleading reports, with the intent to impede and influence the investigation of the assault of Inmate-1, an inmate at Green Haven, which investigation fell within the jurisdiction of the United States Attorney's Office for the Southern District of New York and the Federal Bureau of Investigation.

(Title 18, United States Code, Sections 1519 and 2.)

COUNT FOUR

(Witness Tampering)

18. The allegations contained in paragraphs 1 through 11 of this Indictment are repeated and realleged as if fully set forth within.

19. On or about May 28, 2020, in the Southern District of New York, and elsewhere, ROSITA ROSSY, the defendant, knowingly used intimidation, threatened, and corruptly persuaded another person, and attempted to do so, and engaged in misleading conduct toward another person, with intent to hinder, delay, and prevent the communication to a law enforcement officer of the United States

of information relating to the commission and possible commission of a federal offense, to wit, ROSSY directed Correction Officer-1 to prepare a false and misleading report regarding TAJ EVERLY's use of force against Inmate-1.

(Title 18, United States Code, Section 1512(b)(3).)

COUNT FIVE

(Witness Tampering)

20. The allegations contained in paragraphs 1 through 11 of this Indictment are repeated and realleged as if fully set forth within.

21. On or about May 28, 2020, in the Southern District of New York, and elsewhere, ROSITA ROSSY, the defendant, knowingly used intimidation, threatened, and corruptly persuaded another person, and attempted to do so, and engaged in misleading conduct toward another person, with intent to hinder, delay, and prevent the communication to a law enforcement officer of the United States of information relating to the commission and possible commission of a federal offense, to wit, ROSSY directed Correction Officer-2 to prepare a false and misleading report regarding TAJ EVERLY's use of force against Inmate-1.

(Title 18, United States Code, Section 1512(b)(3).)

COUNT SIX

(Conspiracy to Falsify Records)

22. On or about May 28, 2020, in the Southern District of New York and elsewhere, ROSITA ROSSY, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, the falsification of records, in violation of Title 18, United States Code, Section 1519.

23. It was a part and an object of the conspiracy that ROSITA ROSSY, the defendant, and others known and unknown, would and did knowingly alter, destroy, mutilate, conceal, cover up, falsify, and make a false entry in a record, document, and tangible object with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of a department and agency of the United States.

Overt Acts

24. In furtherance of the conspiracy, and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

25. On or about May 28, 2020, ROSITA ROSSY, the defendant, instructed Correction Officer-1 to file a false and

misleading report regarding TAJ EVERLY's use of force against Inmate-1.

26. On or about May 28, 2020, ROSSY instructed Correction Officer-2 to file a false and misleading report regarding TAJ EVERLY's use of force against Inmate-1.

(Title 18, United States Code, Section 371.)



Damian Williams
DAMIAN WILLIAMS
United States Attorney

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(18 U.S.C. §§ 242, 371, 1512(b)(3),
1519, and 2.)

DAMIAN WILLIAMS

United States Attorney.

A TRUE BILL

