

Friday, December 8, 2006

**Police misconduct: Falsified search warrants and beating of arrestees.**

As I blogged on November 27 and numerous other times, police power is profound and is constantly at risk of abuse -- from physical abuse to corruption to lying on the witness stand and in police reports and the list goes on -- both because abuse is a risk of great power in anybody's hands, and because the criminal justice system and court rulings do not sufficiently protect against police abuse of power. Nevertheless, if a police officer ever were prosecuted for abuse of power, I would not hesitate to defend the officer in criminal court, no more or less than I would for any other criminal defendant. Every criminal defendant should have access to skilled criminal defense, including police officers. Moreover, in some jurisdictions police officers will face at least some jurors already prejudiced against police and by any pretrial publicity. The following accounts are about convictions for police use of falsified search warrants and beating of suspects. Whether or not the following particular defendants committed such crimes, I believe that such police abuse is an all-too-common reality. In federal court in New York, Buffalo police officer Sylvestre Acosta was convicted by a jury for, among other things, "depriving others of their constitutional rights in violation of [18 U.S.C.] § 242, by executing search warrants upon the victims' residences, knowing that such warrants were obtained on false information, for the purpose of taking the victims' property without due process of law." *U.S. v. Skinner*, 2005 U.S. Dist. LEXIS 43865 (W.D.N.Y. Apr. 6, 2005); aff'd 2006 U.S. App. LEXIS 29607 (2d Cir. Nov. 30, 2006) (unpublished opinion). Thanks to TalkLeft for covering this item. Last week, the Fourth Circuit affirmed the conviction of a police officer for violating an arrestee's constitutional rights under 18 U.S.C. § 242 to be free from unreasonable force. The prosecution presented evidence that police arrested and beat Lamont Koonce after he tried to flee a traffic stop and then physically resisted arrest. While Mr. Koonce was resisting, Petersburg City, Virginia, police officer Michael Tweedy stomped on Mr. Koonce's head three times, and three additional times when Mr. Koonce continued to resist. After Mr. Koonce had stopped resisting, and when his left wrist already was in a handcuff, officer Tweedy, nevertheless, officer Tweedy kicked Mr. Koonce two to three times on his side, and stomped on his head three times more. By now, Mr. Koonce was motionless. Nevertheless, Michael Perkins -- while off-duty as a Petersburg City police officer -- arrived, and without talking with the officers already there, inflicted a running kick to Mr. Koonce's side and kicked him again with less force. Officer Tweedy then stomped on Mr. Koonce's head two more times. Officer Perkins, who had just assaulted the motionless Koonce, then pulled officer Tweedy away. Not surprisingly, Mr. Koonce suffered life-threatening injuries, including a lung puncture, brain contusions and bleeding, and multiple skull and facial fractures. Mr. Perkins was sentenced to 51 months imprisonment, and the Fourth Circuit affirmed his conviction last week. Officer Tweedy, who was accused of assaulting Mr. Koonce even more severely, entered a guilty plea under the same statute, and received a 108-month sentence. In this instance, there were other police officers present to testify to this police brutality. For every such instance, countless other instances of police brutality involve no witnesses willing to tell the truth. Jon Katz.

Posted by Jon Katz in Criminal Defense at 00:00