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Police Officer Claims Grievance Process Violates Rights

BY THANASSIS CAMBANIS
UNIVERSITY EDITOR

HILLSBOROUGH—Keith Edwards, the black female police officer who has been pursuing a grievance against the University for seven years, claimed in a hearing Wednesday that her constitutional rights had been violated by the state's grievance process.

The hearing, marked by extensive questioning of the state's attorney by Orange County Superior Court Judge Gordon Battle, included challenges to the structure of the state's employee grievance procedure.

A judgment is not expected until later this month.

Edwards' attorney, Al McSurely, said Edwards' rights to justice without delay

and to justice without favor had been violated by the length of the litigation and the grievance procedure.

"When you have at your disposal all the taxpayers' money, as the University and the State Attorney General's office do, they can go on forever," Edwards said after the hearing. "Just think about the hundreds of dollars the state has wasted so far on this one grievance."

Battle said he did not want to delay the seven-year case any more than necessary. "It's mind-boggling," he said of the length of the litigation.

McSurely said the state had assembled its financial and legal resources to stave off Edwards' grievance, hoping to keep the case in court until Edwards gave up.

"This case is one of the best examples of delay," McSurely said.

David Parker, who presented the state's case, said the state had not intentionally delayed the case and that necessary legal questions had drawn the case out this long.

At stake in Wednesday's hearing was whether Edwards had been discriminated against based on her race and sex in a police department re-organization in June 1987. At the time, Chief Charles Mauer promoted Ed Pierce to sergeant, while Edwards was not even told of the job opening.

An administrative law judge ruled in favor of Edwards on the discrimination charge two years ago, and Wednesday's hearing stemmed from that decision.

The State Personnel Commission reversed the ruling last December. Edwards and McSurely appealed that ruling to the Orange County Superior Court.

Edwards stands to gain a change in title, and Battle could decide to award her back pay if he rules in her favor.

"The promotions involved in this case do not include any pay raise," Parker said.

But McSurely said the judge was not bound by earlier rulings. "You can give an appropriate remedy, given the length of the case, if and when you consider that."

In a more complex legal issue, Edwards and McSurely claimed that the State Personnel Commission violated constitutional rights to impartial justice.

"It looks to seasoned observers like myself that we are not getting quite a fair shake at the State Personnel Commission," McSurely said.

The State Attorney General's office argues against state employees at Step Three of the grievance process then advises the

personnel commission, which is supposed to render an impartial decision, at Step Four.

Parker said state statutes clearly gave the attorney general's office the responsibility to represent and advise the state in all legal affairs.

"The petitioner confuses appearance of conflict of interest with constitutional violations," he said.

While not accusing the state, McSurely said he wanted a court to address the problems inherent in the grievance process.

"On the issue of impartiality, I do not believe that there is any intentional effort to be partial on the part of the attorney general," McSurely said. "But I don't know any other way to get this contradiction before an appellate court."

Battle asked Parker why the state both-

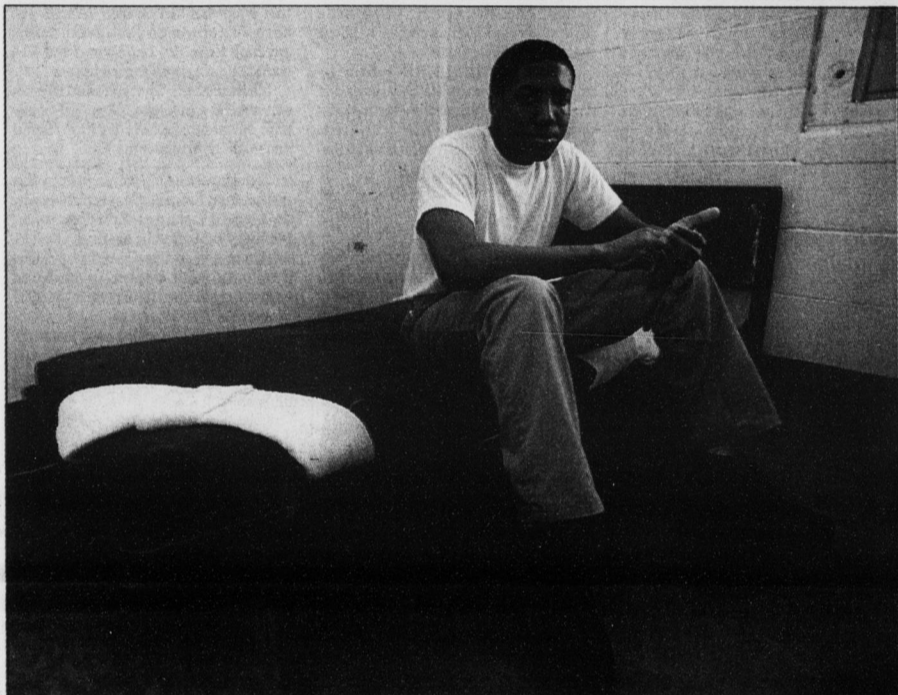
ered to have administrative law judges hear grievances if the personnel commission would overturn those decisions.

"The SPC is not supposed to say 'We just don't agree with what the administrative law judge did, just because it's not what we would have done,'" Battle said. "What's the point of having an administrative law judge?"

Parker said whether the judge agreed with the procedure or not, state statutes allowed the commission, in the context of administrative law, to consider or disregard the record established by lower judges.

The administrative law judge spent two weeks listening to live testimony from witnesses and lawyers before ruling that Edwards had been the victim of discrimi-

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DTH/KATIE CANNON

Anthony Simpson sits in his 8-by-10 cell after eating his lunch at the Western Youth Institute. Simpson says he fills many of the 22 hours a day he spends in his cell thinking about the events that occurred July 15.

Overcrowded Youth Prison Combines Stiff Security With Unusual Freedom

BY JAMIE KRITZER
CITY EDITOR

MORGANTON—The Western Youth Institute, a prison for youth offenders, is referred to by its inmates as the "kiddie camp" because prisoners feel watched over like young children.

But the freedom allowed to most of the prison's 855 14- to 18-year-old inmates gives it an adult atmosphere.

The 16-floor brick high-rise lies nestled in the North Carolina foothills like a towering dormitory in the middle of a nature trail. Surrounded in back by a 12-foot-high galvanized steel fence lined with several spiraling rows of concertina wire, Western has become the home of a criminal many Chapel Hill residents don't want to see in town again — Anthony Georg Simpson.

Simpson said in an interview Tuesday that the rules were very strict, admitting that he was confined to his room for 22 hours each day. Whenever he exits the 10-by-8 cell, Simpson must make his bed with hospital corners, wrapping his towel neatly around one corner.

His sparsely lived-in cell on the 10th floor is made up of only a mattress, a towel and a bed covered neatly with a green army blanket; a sink and toilet; one set of inmates' clothing, consisting of copper-colored pants and a white T-shirt; some underwear; and his toiletries, a Bible and a few magazines, which lie neatly in three cubbyholes on a wall shelf.

Looking out the window into the large recreation yard below where lower security inmates play basketball, Simpson said, "I ain't never going to get in no trouble no more."

Simpson's days are simple, consisting of reading old magazines and his Bible or watching television in the day room, a place down the corridor where inmates socialize for about 30 minutes each day.

"It's kind of boring here," he said, smiling slightly. "I just get lonely sitting in that little room."

But even Simpson, sitting in his prison-issue clothes, said the prison had freedom.

"They don't follow us around," he said. "I came downstairs without a guard."

In fact, most of the interview was con-

ducted in a closed room without a guard present. Many of the prisoners — most of whom have been convicted of rape, murder, assault with a deadly weapon or armed robbery — walk within arm's length of visitors. Most of the inmates are polite, pardoning themselves as they pass by others in the narrow corridors.

And case manager Charles Cottle said prisoners were polite for good reason. "If they pay attention, then sometimes they are not as likely to do more time and come back," he said, adding that he didn't look into the crimes his inmates had committed because of how much harder it would make his job.

He said most prisoners obeyed the rules or else they were sent to the 16th floor — a place where the more disagreeable inmates spend as many as 60 days behind thick gray bars in a cell completely segregated from the rest of the prison population.

The only exercise the segregated inmates get is to walk, handcuffed, back and forth in front of their cell for 30 minutes

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From Prison, Simpson Deplores A Lifelong 'Fit of Rage' Temper

BY JAMIE KRITZER
CITY EDITOR

MORGANTON — Anthony Simpson's dark eyes shift as he freely discusses his temper — an attitude problem he has had to deal with throughout his life.

And one his future case manager says might keep him in prison longer than 10 years, the minimum time someone convicted of second-degree murder, like Simpson, has to serve before being eligible for parole.

In the first time he has talked openly about the July 15 shooting death of Kristin Lodge-Miller, the 18-year-old admitted while sitting in his new home in the Western Youth Institute that he had the "fit of rage"-type temper his attorneys had used to argue his case. Simpson originally was charged with first-degree murder and attempted rape.

"If a guard puts his hands on me, I'm going down into the 'hole,'" Simpson told a corrections officer Tuesday. He later said: "I see dudes up there and guards spraying them with Mace. If they do that to me, I'm going straight to the 16th."

The "hole" and the 16th are the strictest confinement areas, where youth offenders between 14 and 18 serve time for crimes like assault with a deadly weapon, rape, armed robbery and murder. Prisoners with discipline problems stay on separate floors, called disciplinary segregation, and are alone in a tiny dark, cement cell for 23 hours every day.

"With that attitude he has, he's likely to be up here," Charles Cottle said as he walked along the 16th floor. Cottle soon will become Simpson's case manager.

When considering parole, the Parole Commission considers several factors, including how many times a prisoner was disciplined, how he did in the prison's programs, whether he was cooperative with the supervisory staff and whether he was remorseful for his crime. Cottle said community resistance to a particular inmate was important. In Chapel Hill, a petition already is circulating to keep Simpson in prison.

"If people in the community are saying 'We don't want him back in this town,' then that really hurts," Cottle said.

Early Morning, July 15

Simpson maintained a matter-of-fact attitude as he explained the thoughts running through his head the morning that changed a community.

"I had not seen (Lodge-Miller) before," he said, shifting forward in his seat. "I don't know what made me decide to get the gun. I didn't really carry, carry a gun like Clint Eastwood carries a gun. It's like most people, you just feel naked without it."

That morning, Simpson was riding his bike, looking for a place to get something to eat before summer school. After buying two Snapples at a convenience store, Simpson rode down Estes Drive and saw the 26-year-old Lodge-Miller jogging.

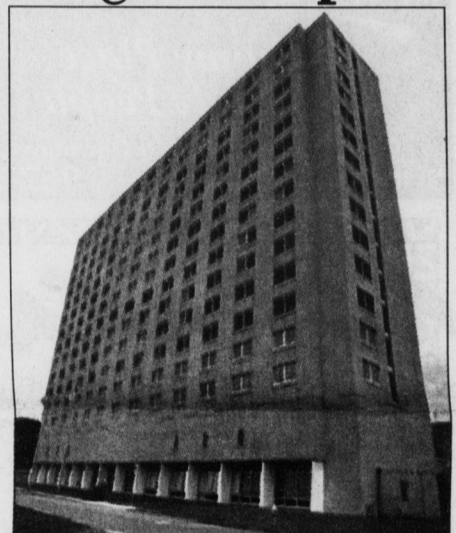
She jogged down to Airport Road and doubled back. Simpson said he was disturbed because he saw the jogger looking at him both times she passed him.

"I said, 'What are you looking at?'" Simpson remembered. "And she sprayed me with Mace on the chest. All of the vapors went up in my mouth. I couldn't breathe."

Simpson said he had tried to control himself. But when the Mace kept coming, his temper took over. "I pulled out the gun with this hand," Simpson said, motioning with his right arm.

"I showed her the gun when I pulled it out so that I thought she would see it and stop spraying me with that stuff. I got real mad then. After that first shot was fired, it was like I couldn't stop until that bullet got locked up in the chamber.

"I saw her breathing, and I got real scared."



DTH/KATIE CANNON

The 16-story main building of the Western Youth Institute in Morganton is the home for 655 inmates ranging in age from 14 to 18. Anthony Simpson is housed in this facility.

The Verdict

Simpson, who spoke without any restraint during the two-hour interview in an educational room on the fourth floor, said he was still remorseful for his crime. An appeal is not an option.

"If I appealed, I might get just 15 years. That would make me feel guilty. I'd probably just do two years and get right out."

Simpson said he thought 10 years would be plenty of time to punish him. Although Simpson is satisfied with having been convicted of second-degree murder, he was miffed by many people's anger when he got the lesser conviction instead of first-degree murder, which can be punishable by death.

"In a way, in that courtroom, they made me feel guilty. One lady looked at me and said, 'Just look at this,'" he said about when the jury had passed down their decision. "That's ludicrous. I don't have anything to do with the judicial system."

One of the prisoners he met in jail after the trial asked why he hadn't spit on Orange County Superior Court Judge Gordon Battle for giving him a life sentence.

"I said, 'He could have given me the death penalty.' I ain't mad at him. As far as I'm concerned, they were just doing their job."

Trouble With a Temper

Not afraid to rattle off his knowledge of the penalties for drug possession, Simpson admitted he had served time in two other facilities when he lived in Virginia.

When he was 14, he spent about three months in the Norfolk Detention Home for smacking an enemy classmate on the head with a shovel during a home economics project. In early 1992, Simpson served nine months in the Beaumont Learning Center for shooting into a moving car during a drug deal.

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Professor to Take Tenure Battle to Court

BY KELLY RYAN
EDITOR

An assistant mathematics professor who was denied tenure has taken his case to the federal courts, where it will be heard next July.

Idris Assani will appear in U.S. District Court in Greensboro on July 10, 1995, to try to prove that if it were not for race, he would have been promoted to associate professor, a position that comes with tenure.

Mathematics Department Chairman Patrick Eberlein said Wednesday that Assani, along with two other professors, would be considered for tenure in the fall.

Raleigh attorney Thomas Ziko, who is representing the University in the case, said Tuesday that this was not UNC's first tenure case to be heard in federal court.

"This is an unusual case," Ziko said. "He has not been separated (from UNC) because he remains employed. The alleged loss of salary is relatively small."

Assani, who was born in Niger, is seeking \$2.6 million in punitive damages.

A six-member jury will determine whether Assani was discriminated against, and the judge will decide whether Assani should be given any nonmonetary compensation, such as ordering the University to promote him and give him tenure.

Ziko said he could not comment on whether the University had tried or might try to settle the case out of court.

Assani first filed a lawsuit in U.S. District Court on May 21, 1993. He charged that he was discriminated against in his tenure review process because he was black.

Assani tried to appeal through the University's appeals process, but he be-

lieves his appeal was stalled.

After he was denied promotion in November 1991, Assani sent Stephen Birdsall, dean of the College of Arts and Sciences, a 13-page letter complaining he had been discriminated against.

Assani discovered that to file charges against UNC with the Equal Employment Opportunity Commission he had to within 180 days of the date he was denied promotion. He received a response from Birdsall about 10 days before the EEOC deadline.

He filed charges with the EEOC, but the commission found insufficient evidence to conclude he had been discriminated against because of race.

Assani had 90 days to file charges in federal court, so he did.

Assani has received several grants from the National Science Foundation and published 35 mathematics articles.

Study: Parents OK Staying at UNC 4 Years Plus

BY THANASSIS CAMBANIS
UNIVERSITY EDITOR

UNC parents don't mind when their kids take a little extra time to graduate. Even if it costs them.

According to a recent survey of parents conducted by the Office of Institutional Research, parents ranked legitimate academic concerns as the main reason why their children took more than eight semesters to graduate. The parents ranked problems with student motivation and the University's structure very low.

"I think we're basically just trying to have information out there that there are some good educational reasons that students will take more than four years to graduate," said Timothy Sanford, director of institutional research.

The survey found that students who

took five years to graduate rarely spent more semesters in school than four-year graduates.

The survey, released Monday, comes on the heels of laws enacted by the N.C. General Assembly last summer to encourage students to graduate in four years.

One rule requires all UNC-system schools, beginning in 1997, to raise the average semester course load to 15 hours per semester.

The second rule adds a 25-percent tuition surcharge, effective for freshmen entering in 1994, for any student who still is enrolled for a four-year degree after eight semesters and 128 credit hours.

Under the new laws, fifth-year senior Lee Hamilton of Mebane would be paying 25 percent more for his tuition because he switched his major from philosophy and English to physics. "I changed my major in

my junior year," Hamilton said. "I had 120 credits by the end of eight semesters, but no degree in a particular major."

Hamilton will need at least 5 1/2 years to graduate. The assembly's new rules don't allow for flexibility of choice, he said.

"I can't say I like the new rules very much," he said. "It seems that it wants everybody to fit into a mold that not everybody is made for."

Sanford said an important fact came out while researchers were preparing to conduct the survey. "We have noticed that there's a big difference in (the number of) students graduating after five or six years than after four years," Sanford said.

However, those statistics do not reflect the actual amount of time enrolled before graduation. For example, the freshman

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To be ignorant of one's ignorance is the malady of the ignorant.

Amos Bronson Alcott (1799-1888)