

Declaration of Nina Kennedy

I, Nina Kennedy, declare the following based on my personal knowledge.

1. I am over the age of 18

2. I am the manager of the West Terrace Apartments at 14305 Lorain Road, Cleveland, OH

3. In my capacity as manager of the apartment complex, I am familiar with Juan Ortiz who used to reside there. Juan is a young Hispanic boy who suffers from Down syndrome. His disability is evident from his appearance. Based on my interaction with Juan, I know that he does not speak English or Spanish and understands only a few words. Juan is small for his age and looks younger than he is. He is a very sweet child.

4. Late in the afternoon of August 16, 2010, I was in my apartment on the second floor when two white adult males called up to me from the back of the apartment. One was wearing a blue t-shirt and was in his 40s. He had dirty-blond hair and a mustache. The other gentleman was in his 50s. He was wearing a ball cap. He was clean-shaven and I believe he was wearing a red t-shirt. They yelled up to me that they had found a wallet, which they provided to me. They suggested it might have been stolen.

5. I called the police and indicated what the two men had told me and provided a description of the two men as described above. I specifically described the man I believed was wearing the red t-shirt as an "older gentleman." I told the dispatcher that I had not seen the two men before and that they were heading eastbound on Lorain.

6. A short time later, I heard a lot of commotion outside. I immediately went to the window that overlooks the parking area for the apartments and saw Juan Ortiz handcuffed and pinned against a vehicle by a policeman. Another officer was with them along with Juan's parents, Ramón Ortiz and Alma Pérez.

7 The window was open, and the officers were only a short distance from me. I yelled to the officers that I had the wallet and they had the wrong person. I said, "You got the wrong person! That's not right!" The officers had to have heard me given how close we were. One of the officers—not the one pinning Juan to the vehicle—looked directly up at me while I was yelling, but he said nothing and did nothing to stop the other officer from hurting Juan.

8. I observed Juan's parents pleading with the two officers to let go of their son. Juan's father was speaking English and his mother was speaking Spanish. I observed one of the officers push Juan's mother and she fell to the ground. I heard Juan's father tell the officers that Juan was his son, that Juan had Down syndrome, and that Juan did not understand what they were saying. I observed Juan's brother, Malvin Pérez, on his second-floor balcony asking the officers what they were doing to his brother.

9. But the police were not listening and were using very profane language toward Juan's family. The police were using the "F" word a lot. I heard one of the officers tell Juan's parents to go back to their own country if they can't speak the language here. The officers were telling Juan's parents and other relatives to "shut the fuck up" and "get the fuck away from here." The language they used was extremely inappropriate.

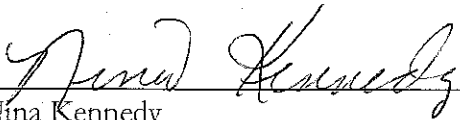
10. While he was being held against the car, Juan was crying and very upset. I believe he was trying to let the officers know that they were hurting him. I observed the police pinning Juan against the vehicle for 10-15 minutes. They then put him in the back of a police car until they let him go.

11. Two officers (not the ones holding Juan or who had used foul language to his family and told them to go back to their own country) came to my apartment to pick up the wallet. I told them they had the wrong person. I told the officers that Juan wasn't 40-50 like the men I had reported delivering the wallet to me. Anyone would have known from looking at Juan that he is not a white adult male. Anyone would have known from looking at Juan that he was not in his 40s or 50s.

12 After the incident on August 16, 2010, Juan was scared to death to see police officers. Every time he would see a police car, he would run into the apartments. I observed Juan reacting in terror to seeing a police car on numerous occasions. If Juan was close to my apartment, he would run to me. One such incident occurred in the summer of 2011. There was a fire in our complex and fire and police responded. Juan ran to me and I had to call his father to come get him and calm him down. Prior to the incident, I had never observed Juan to be frightened of law enforcement. Based on my observation of Juan, he was scared of police officers only after the incident on August 16, 2010 where he was pinned against the car and handcuffed.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 11-27-12



Nina Kennedy