

Daily Journal

PAGE 4 • FRIDAY, APRIL 14, 2006

- CIVIL RIGHTS

FALSE ARREST

Malicious Prosecution

VERDICT: \$18 million.

CASE/NUMBER: Raul Ramirez v. County of Los Angeles / 2:04CV06102GAFFMO

COURT/DAT: JSDC Central / February 16, 2006

JUDGE: Hon. Gary A. Fees

PLAINTIFFS: Plaintiff - Michael Olecki (Grodka & Olecki LLP, Santa Monica); Plaintiff - Michelle J. Fobel (Berkeley Hills);

DEFENDANT - Donald R. Beck (Manning & Marder, Kass, Elrod, Ramirez, LLP, Los Angeles); Defendant - Patrick L. Htirley (Manning & Marder, Kass, Elrod, Ramirez, LLP, Los Angeles);

MEDICAL EXPERTS: Plaintiff - Walter P. Greenberg, Ph.D., psychology, Los Angeles; Plaintiff - Richard Romanoff, Ph.D., forensic psychology, Los Angeles;

TECHNICAL EXPERTS: Plaintiff - Roger A. Clark, police practices and procedures, Santee; Plaintiff - Steven E. Clark, Ph.D., eyewitness identification, Riverside; Plaintiff - Robert Wunderlich, Ph.D., economics, Los Angeles; Plaintiff - Kathy Kellerman, Ph.D., M.S., jury consultation, Los Angeles; Plaintiff - Lynda S. Larson, private investigation, Los Angeles; Plaintiff - Al Ristuccia, private investigation, Los Angeles;

DEFENDANT - Jared Zwickey, police practices and procedures, Tracy;

FACTS: In May 2002, a 16-year-old girl was forced into a car at gunpoint while waiting for a school bus in South Los Angeles, then driven to other location where the perpetrator attempted to sexually assault her. Approximately eight months later, on Jan. 10, 2003, plaintiff, a 26-year-old special education teacher, was arrested for the kidnapping and assault of the victim after she saw plaintiff's car being driven in the vicinity of the crime. Ten months later, the plaintiff was found not guilty in state court of kidnapping to commit murder, 11th Judicial Copulation, Malicious Prosecution, using a tear gas weapon, and assault with a firearm. This action, against defendants.

PLAINTIFF'S CONTENTIONS: The plaintiff contended that he was falsely arrested, illegally searched, maliciously prosecuted for a crime he did not commit, and that his civil rights were intentionally violated. The plaintiff contended that the Sheriff's Department had no probable cause to arrest or search plaintiff, that they ignored, fabricated and/or concealed exculpatory and exonerating evidence, and that the defendant Sheriff's Department did nothing to prevent defendant Bravo, the lead detective in the case, from violating plaintiff's constitutional rights.

DEFENDANTS' CONTENTIONS: The defendants contended that the victim identified plaintiff as the perpetrator and that defendant Bravo was doing his job. The defendants further claimed that, because the District Attorney independently filed charges against plaintiff, probable cause was presumed to exist. Defendant Bravo also contended that he had "qualified immunity" because, a reasonably prudent officer would have believed that Bravo's actions were proper and constitutional.

INJURIES: Post-traumatic stress disorder, physical injury, emotional distress, damage to reputation, loss of earnings, and other economic damages.

JURY TRIAL: Length, three weeks; Poll, 9-0; Deliberation, 2.5 hours

SETTLEMENT DISCUSSIONS: The plaintiff demanded an unspecified seven-figure amount. Three days before trial defendants offered \$250,000 and, according to defense counsel, had recommended significantly more.

RESULT: \$18 million against County of Los Angeles; Los Angeles County Sheriff's Dept., and Frank Bravo.

OTHER INFORMATION: After the verdict, the parties reached a settlement in which the Sheriff's Department agreed to pay plaintiff \$9.3 million, including attorney's fees, to be paid over three fiscal years. None of the plaintiff's attorneys had previously tried a civil rights case. The verdict amount was the largest-ever single-plaintiff's verdict against the Los Angeles County Sheriff's Department.

On Oct. 25, 2005, the court granted summary judgment on behalf of plaintiff's Monell claims and the wrongful jail classification claim. The court also granted summary judgment for defendants as to plaintiff's claim that exculpatory evidence was withheld during the criminal case as well as plaintiff's claim under the Eighth Amendment.

According to plaintiff's counsel, in opposing defendants' summary judgment motion, plaintiff requested that the court issue a certification that any appeal regarding qualified immunity would be "frivolous." The court granted plaintiff's request, thereby preventing a two- to three-year delay pending a potential interlocutory appeal. Defendants then filed an appeal and requested that the District Court proceedings be stayed. The Ninth Circuit denied defendants' request, and defendants dismissed their appeal.

Mediation was held before retired Judge Eric Younger.