

August 3, 1988

REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL

Jose Oscar Esqueda v. City of San Diego  
Superior Court Case No. 584331

The plaintiff was shot in the face by a San Diego police officer while sitting in his car in Mission Bay Park. Mr. Esqueda sued the City on the theory that the police had no reason to approach or detain him. He maintained the shooting was entirely without justification. A Superior Court jury returned a verdict in favor of the City.

FACTS

At approximately 11:00 p.m. on August 22, 1986, members of the Police Department's Beach Enforcement Team were patrolling the Leisure Lagoon area, near the Hilton Hotel in Mission Bay Park. The area had become a gathering place for members of Hispanic street gangs. Enforcement efforts on summer nights typically involved curfew violations and minors in possession of alcohol. There had been several incidents of gang related violence in the park earlier in the summer.

The plaintiff, Oscar Esqueda, was driving a Volkswagon which was stopped behind another car waiting to leave the park. Officer Thomas Staley, who had worked as a patrol officer in southeast San Diego for several years, recognized Oscar Esqueda as a member of the Market Street Gang. He thought that Mr. Esqueda was wanted as suspect in a drive-by shooting which had taken place earlier in the summer.

Officer Staley approached the plaintiff's car, drew his gun, and advised Mr. Esqueda not to move. Esqueda lowered his right hand. Officer Staley, fearing the suspect was reaching for a gun, fired his revolver. The bullet entered the left side of the plaintiff's face above the upper lip and knocked out eight front teeth. Plaintiff claimed he never moved either hand and was shot for no reason.

Another officer reported hearing Staley ask Esqueda for his drivers license just prior to firing the shot.

The plaintiff claimed he never moved either hand and was shot for no reason.

Several days later the police found a sawed-off shotgun and a stolen .357 magnum pistol concealed behind a door panel in the plaintiff's automobile. The plaintiff was ultimately acquitted

of criminal charges for possession of these weapons.

LITIGATION

There was a one week jury trial before the Honorable Alpha Montgomery. The plaintiff, represented by David Perry and Michael Newlee, asked the jury to award one million dollars plus punitive damages. The jury returned a 10-2 verdict in favor of the City. Deputy City Attorney Anthony J. Shanley tried the case on behalf of the City.

Respectfully submitted,

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City Attorney

AJS:jt:jkp:Lit(x043.1)

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