

March 26, 1991

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
LOUIS JEVITZKY V. CITY OF SAN DIEGO, ET AL.
MUNICIPAL COURT CASE NO. 473376

On March 13, 1991, a jury returned a verdict in favor of the City of San Diego and a San Diego police officer in a personal injury lawsuit which arose from an arrest by the officer.

On September 13, 1987, at 3:45 a.m., San Diego Police officers observed a pickup truck with its engine running parked in a deserted parking lot. Plaintiff, a twenty-five year old diabetic was in the driver's seat rocking back and forth in a hypoglycemic reaction. Symptoms of a hypoglycemic reaction can simulate being under the influence of alcohol. The officers decided to detain plaintiff to investigate whether he was under the influence of alcohol or whether some other problem was causing his strange behavior. After plaintiff got out of the truck, the officers ordered him to move away from the open driver's door, a standard safety procedure. When plaintiff refused to move the officers tried to lead him away from the door. Plaintiff punched one officer in the face and the second officer applied a carotid restraint to subdue him.

The increased blood pressure from the carotid restraint caused blood vessels in plaintiff's eyes to rupture. A preexisting medical condition associated with diabetes made plaintiff's eyes much more susceptible to this type of injury than the general public. Plaintiff acted normally after the incident (the release of adrenaline counteracted the hypoglycemic reaction) and was arrested and taken to jail for battery on a police officer. The charges were later dismissed.

Plaintiff alleged the officer who applied the restraint committed false arrest and battery, was negligent in the use of force and was negligent in failing to render medical care. Plaintiff alleged the City negligently trained its police officers in recognizing and reacting to diabetic medical conditions.

The officer and City contended the officer had probable cause to arrest, used only reasonable and necessary force and that neither the officer nor the City was negligent.

The case proceeded to trial in San Diego Municipal Court on March 8, 1991 before a jury and Commissioner James Duchnick. On

March 12, 1991 Commissioner Duchnick granted a directed verdict in favor of the officer and the City finding there was no negligence in failing to render medical care and in training police officers in recognizing and reacting to diabetic medical conditions. On March 13, 1991 the jury returned a verdict in favor of the officer and the City declaring that the officer had not committed false arrest, had not committed battery and was not negligent in his use of force.

Deputy City Attorney Sim von Kalinowski tried the case on behalf of the officer and the City of San Diego.

Respectfully submitted,

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City Attorney

SvK:dk:Lit.(x043.1)

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