

APPENDIX B
Rulings of the District Court for the
Central District of California

Order Dated May 8, 2015 Granting in Part and Denying in Part Plaintiff's [First] Motion to Amend Complaint, District Court Document ("Doc.") 30, CFC_EOR_010-013

Civil Minutes - General Dated July 13, 2015: Pretrial Conference Proceedings re Defendants' In Limine Motions, Doc. 57, CFC_EOR_025

Civil Minutes - General Dated August 31, 2015: Pretrial Conference Proceedings re Defendants' In Limine Motions, Doc. 97, CFC_EOR_026

Reporter's Transcript of Proceedings Dated August 31, 2015: Pretrial Conference re Defendants' In Limine Motions, Doc. 131, CFC_EOR_062-082 and CFC_EOR_100-101. In Limine Motion Ruling on BOPC Report is Made at pp. CFC_EOR_080-082

Court's Instructions to the Jury Dated September 9, 2015, Doc. 113, CFC_EOR_029-043

Jury Verdict Dated September 9, 2015, Doc. 111, CFC_EOR_044

Jury Notification re Unanimous Verdict Dated September 9, 2015, Doc. 114, CFC_EOR_045

Judgment on the Verdict for Defendants Dated September 10, 2015, Doc. 118, CFC_EOR_046

Application to the Clerk to Tax Costs Dated 9/15/2015, Doc. 199, CFC_EOR_047-048

Judgment Re: Officer Jacob Maynard, The City of Los Angeles and Los Angeles Police Department Dated September 17, 2015, CFC_EOR_049-051

Application to the Clerk to Tax Costs Dated 9/21/2015, Doc. 121, CFC_EOR_052-053

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASH JEROME FERGUSON-CASSIDY,)
)
Plaintiff,)
)
v.)
)
CITY OF LOS ANGELES, et al.,)
)
Defendants.)

Case No. CV 14-06768-SVW-JPR

ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION TO AMEND THE
COMPLAINT [26]

BACKGROUND

Los Angeles Police Officers allegedly shot Cash Jerome Ferguson-Cassidy during the wee hours of June 30, 2013. Notice of Removal, Exh. 1 at ¶ 10, ECF No.1. A year later, he sued the City of Los Angeles and its police department in state court. Notice of Removal, Exh. 1, ECF No.1. The two defendants removed the case. Notice of Removal, ECF No. 1. This Court then held an initial status conference on October 20, 2014, setting a trial date of April 7, 2015. Minutes of New Case Status Conference, ECF No. 8. About four months later, the parties — averring that they had “been diligently litigating this matter” — requested an extension. Joint Stipulation to Continue, ECF No. 16. The Court therefore continued the trial to June 16. Order, ECF No. 17. Since then, the parties conducted additional discovery and mediated the case. *See* Initial Disclosure of Expert Witness, ECF No. 21; Order Allowing Use of Court’s Early Mediation Program, ECF No. 23; Notice of Assignment to Mediator, ECF No. 24.

Ferguson-Cassidy now seeks leave to file a First Amended Complaint. Motion for Leave

1 to File, ECF No. 26. The proposed complaint alters the legal claims and adds new factual
 2 details, including why the police arrived at the scene, how the shooting unfolded, the ensuing
 3 fallout, and other police shootings allegedly evincing deliberate indifferent supervision as well as
 4 a city-wide pattern of unconstitutional police conduct. Proposed Amended Complaint at ¶¶ 9,
 5 11, 28-64, ECF No. 26-2. The City and LAPD opposed the motion. Opposition, ECF No. 27.

6 LEGAL STANDARD

7 A Court should “freely give” leave to amend a pleading. Fed. R. Civ. P. 15(a). This
 8 policy is applied with “extreme liberality.” *Desertrain v. City of Los Angeles*, 754 F.3d 1147,
 9 1154 (9th Cir. 2014) (quoting *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079
 10 (9th Cir. 1990)). But even extreme liberality has limits: leave is inappropriate if amendment
 11 would be futile, unduly prejudicial, dilatory, or was requested in bad faith. *See Foman v. Davis*,
 12 371 U.S. 178, 182 (1962); *Sharkey v. O’Neal*, 778 F.3d 767, 774 (9th Cir. 2015); *C.F. ex rel.*
 13 *Farnan v. Capistrano Unified Sch. Dist.*, 654 F.3d 975, 985 (9th Cir. 2011).¹

14 ANALYSIS

15 Ferguson-Cassidy seeks to overhaul his case ten months after filing suit, eight months
 16 after the case arrived in federal court, and just forty days before trial. Such a drastic, eleventh-
 17 hour amendment would gravely prejudice the defendants. Moreover, the proposed complaint
 18 contains misleading factual allegations and flawed legal assertions — indicia of futility or bad
 19 faith. The Court cannot grant the requested leave to amend under such circumstances.

20 To begin, the proposed complaint changes the entire legal approach to this case. The
 21 original complaint advanced five causes of action: a Section 1983 claim (including *Monell*

22
 23 ¹ Defendants contend that Federal Rule of Civil Procedure 16, not 15, governs. Rule 16 only applies
 24 when a motion to amend is made after the deadline set by the court’s scheduling order. *Johnson v.*
 25 *Mammoth Recreations, Inc.*, 975 F.2d 604, 607-08 (9th Cir. 1992). In this scenario, the motion in
 26 effect asks for two forms of relief: (1) a modification of the court’s scheduling order and (2) leave
 27 to file. Thus, the movant must show he is entitled to relief under Rule 16 (to modify the
 28 scheduling order) and Rule 15 (to amend the pleading). *See, e.g., Forstmann v. Culp*, 114 F.R.D.
 83, 85 (M.D.N.C. 1987). This Court, however, instructs attorneys during the initial scheduling
 conference that either party may make a motion at any time so long as they comply with the
 Federal Rules of Civil Procedure, the Local Rules, and the Court’s standing order. And where, as
 here, a motion to amend the complaint is filed before the operative deadline, only Rule 15 must be
 satisfied. *See, e.g., Taylor ex rel. Thomson v. Zurich Am. Ins. Co.*, No. CV11-08110-PCT-JAT,
 2013 WL 1340014, at *3 (D. Ariz. Apr. 1, 2013).

1 allegations) for violations of his right to be free from cruel and unusual punishment as well as
2 state-law causes of action for assault and battery, negligent hiring, and intentional infliction of
3 emotional distress. The amended complaint, however, would allege a Section 1983 claim for
4 excessive force, a Section 1983 claim predicated on inadequate supervision, an attendant *Monell*
5 claim, and state law claims for negligence, gross negligence, violation of the Bane Act, and
6 intentional infliction of emotional distress. In addition, Ferguson-Cassidy originally sued only
7 the City, the LAPD, and twenty-five does. He now adds the chief of police and five individual
8 officers — despite failing to explain why it took over half a year of discovery to determine their
9 identities. Thus, Ferguson-Cassidy not only asks to change the legal rules of play, but he also
10 seeks to add six new defendants just one month before trial.

11 Moreover, the proposed complaint sprouts two problems for every one it cures. For
12 instance, Ferguson-Cassidy now supports his *Monell* claim, in part, by citing the fatal shooting
13 of Reggie Doucet, Jr., as a “byproduct[] of LAPD’s aforementioned infernal culture of impunity
14 that prevailed at the time of the shooting of Plaintiff.” Proposed Amended Complaint at ¶ 56,
15 ECF No. 26-2. His portrayal of this incident is inexcusable: as this Court well knows — having
16 presided over the trial in that case — a unanimous jury found that the officers did not use
17 unreasonable force under the circumstances. *J.L.D. v. City of Los Angeles*, No. 2:11-cv-03141,
18 Redacted Verdict Form (C.D. Cal. Sept. 12, 2014). The proposed complaint also contains a new
19 cause of action for “gross negligence” even though California does not recognize an independent
20 tort of gross negligence. *Saenz v. Whitewater Voyages, Inc.*, 226 Cal. App. 3d 758, 766 n.9 (Cal.
21 Ct. App. 1990); *Cont’l Ins. Co. v. Am. Prot. Indus.*, 197 Cal. App. 3d 322, 329 (Cal. Ct. App.
22 1987). Furthermore, Ferguson-Cassidy’s new complaint alleges violations of his “constitutional
23 (primarily Fourth Amendment) rights.” Proposed Amended Complaint at ¶¶ 76, 77, 78, ECF No.
24 26-2. But alleging violations of *primarily* the Fourth Amendment — without specifying what
25 else — fails to provide defendants with basic notice of the claims leveled against them. *See, e.g.*,
26 *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991) (observing, even under *Conley*’s pleading
27 regime, that a complaint must “put defendants fairly on notice of the claims against them”).

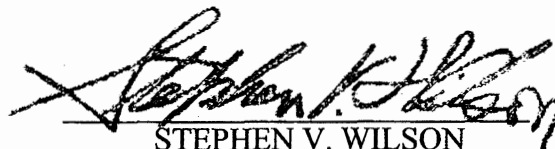
28 Worst, Ferguson-Cassidy offers no justification for these shortcomings. He failed to

1 explain how Defendants would not be prejudiced by the complete transformation of his lawsuit.
2 He failed to excuse the lengthy delay before seeking amendment. He did not show how newly-
3 added defendants could prepare for trial in forty days. He did not demonstrate how an incident
4 that did not involve excessive force supported his *Monell* claim. And he failed to defend
5 apparently untenable legal theories. In fact, Ferguson-Cassidy offered little more than his say-so
6 that amendment would enable him to “stand . . . in better stead than he would be if he proceeded
7 under the original complaint.” Motion for Leave to File, 7:22-23, ECF No. 26. Given the
8 manifest problems associated with the amendment, this explanation does not suffice.

9 Leave to amend is inappropriate under such circumstances. In *Zivkovic v. Southern*
10 *California Edison Co.*, for example, the Ninth Circuit affirmed a district court’s refusal to grant
11 leave because the new complaint, submitted less than three months before trial, added new
12 causes of action that would have necessitated further discovery and delayed trial. 302 F.3d 1080,
13 1087 (9th Cir. 2002). The amendment here is only one month away from trial, it adds new
14 claims *and* new parties, and its miscues — both legal and factual — are indicia of bad faith or
15 partial futility. *See also Lockheed Martin Corp. v. Network Solutions, Inc.*, 194 F.3d 980, 986
16 (9th Cir. 1999); *Perez-Falcon v. Synagro W., LLC*, No. 1:11-CV-01645-AWI, 2013 WL
17 1281604, at *6 (E.D. Cal. Mar. 27, 2013); *Cano v. Schriro*, 236 F.R.D. 437, 441 (D. Ariz. 2006).

18 The Court notes, however, that the current complaint contains one deficiency that must
19 be cured. The current complaint inexplicably advances claims premised on the Eighth rather
20 than the Fourth Amendment. Therefore, the Court **GRANTS** the motion to amend only in so far
21 as it corrects the Eighth Amendment theory with a Fourth Amendment claim. In all other
22 respects the motion is **DENIED**.

23 Dated: May 8, 2015

24 
25 STEPHEN V. WILSON
26 United States District Judge
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28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:14-cv-06768-SVW-JPR Date July 13, 2015

Title Cash Jerome Ferguson-Cassidy v. City of Los Angeles et al

Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE

Paul M. Cruz/Connie Lee

Sheri Kleeger

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Ray Newman
Frank Duncan

Colleen R. Smith
Cory M. Brente
Kevin Gilbert

Proceedings:

PRETRIAL CONFERENCE
DFTS Motions in Limine
[32] to Bifurcate Liability and Damages
[33] to Exclude Evidence of Any Administrative Investigations or Proceedings Involving Any of the Individual LAPD Officers, Including the IA and Use of Force Investigation and Repor
[34] to Exclude Evidence, Statements, Suggestions or Inferences of Other Lawsuits, Claims, Verdicts, Settlements or Judgments Involving the City of Los Angeles, the LAPD or Any of the Involved Police Officers
[35] to Exclude Plaintiffs Expert Witness, Dr. Susan Ashley, and Any Claims Related to Her Opinions, Including His Claims of Post Traumatic Stress Disorder and Major Depressive Disorder

Case called. Court and counsel confer. The Court sets the following dates:

Pretrial Conference August 31, 2015 at 3:00 p.m.
Jury Trial September 8, 2015 at 9:00 a.m.

Initials of Preparer PMC/CL : 15

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. 2:14-cv-06768-SVW-JPR Date August 31, 2015

Title Cash Jerome Ferguson-Cassidy v. City of Los Angeles et al

Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE

Paul M. Cruz
Connie Lee

Myra Ponce

Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Ray Newman
Frank Duncan

Colleen R. Smith
Cory M. Brente
Kevin Gilbert

Proceedings:

PRETRIAL CONFERENCE
DFTS MOTIONS in Limine
[32] to Bifurcate Liability and Damages
[33] to Exclude Evidence of Any Administrative Investigations or Proceedings Involving Any of the Individual LAPD Officers, Including the IA and Use of Force Investigation and Report
[34] to Exclude Evidence, Statements, Suggestions or Inferences of Other Lawsuits, Claims, Verdicts, Settlements or Judgments Involving the City of Los Angeles, the LAPD or Any of the Involved Police Officers
[35] to Exclude Plaintiffs Expert Witness, Dr. Susan Ashley, and Any Claims Related to Her Opinions, Including His Claims of Post Traumatic Stress Disorder and Major Depressive Disorder
[59] MOTION IN LIMINE (#1) to Exclude Prior and/or Subsequent Officer Involved Shootings, Complaints, IA Investigations, DA Investigations, Other Law Enforcement Investigations and/or Any Prior Bad Acts or Personnel History of Any Officer filed by Defendant
[60] MOTION IN LIMINE (#2) to Preclude Arguments or References to Plaintiff's Emotional Distress or Mental Health and Any Damages Relating Thereto filed by Defendant
[61] MOTION IN LIMINE (#3) to Preclude Arguments or References to City of Los Angeles' Internal Findings and References to Officer Maynard's Use of Load Bearing Vest filed by Defendant
[62] MOTION IN LIMINE (#4) to Bifurcate Liability from Punitive Claims and Damages filed by Defendant

Hearing held. The Court advises the parties how it intends to rule on the motions as stated on the record.

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Initials of Preparer

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION
HONORABLE STEPHEN V. WILSON, U.S. DISTRICT JUDGE

CASH JEROME FERGUSON-CASSIDY,)
)
 Plaintiff,)
)
 vs.) Case No.
) CV 14-6768 SVW (JPRx)
 CITY OF LOS ANGELES, et al.,)
)
 Defendants.)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
PRETRIAL CONFERENCE
MONDAY, AUGUST 31, 2015
4:50 P.M.
LOS ANGELES, CALIFORNIA

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MONDAY, AUGUST 31, 2015; 4:50 P.M.

LOS ANGELES, CALIFORNIA

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THE COURTROOM DEPUTY: Item 11, CV 14-6768-SVW,
Cash Jerome Ferguson-Cassidy vs. City of Los Angeles, et al.
Counsel, please state your appearances.

MR. NEWMAN: Afternoon, Your Honor. Ray Newman on
behalf of Cash Jerome Ferguson with co-counsel Frank Duncan.

THE COURT: Okay. This is the time for pretrial
conference. Could you, Mr. Newman, start the hearing by
telling me how you intend to present your case?

MR. NEWMAN: Yes, Your Honor. We plan to call,
first, the witness who made the 911 call who reported that he
had heard fireworks going off next to his home. We then plan
to call --

THE COURT: Is that what he said, "fireworks"?

MR. NEWMAN: Yes. He mentioned later that he heard
a dry clicking that he thought was a gun, but he was unable to
distinguish whether or not the noise he heard was fireworks
or --

THE COURT: Well, what did he say in the 911 call?
What will he testify to?

MR. NEWMAN: He'll testify in a 911 call, will say
that it was fireworks.

THE COURT: I see. And nothing about a gun?

1 MR. NEWMAN: The only thing about a gun, he said he
2 heard them discussing a gun and a dry clicking.

3 THE COURT: I see.

4 And then I -- I remember the police respond, and it was
5 at night; correct?

6 MR. NEWMAN: Yes, it was about 2:30 a.m.

7 THE COURT: And the officer who was the shooter
8 walked toward the back of the -- or the side of the backyard
9 and the -- in other words, my image is of the neighbor -- there
10 was a driveway between the two homes; correct?

11 MR. NEWMAN: Yes. The pathway between the two
12 homes.

13 THE COURT: And the officer walked from the street
14 up that pathway, and he said that he reached the point of
15 the -- where he could look into the backyard and there was a
16 porch at the -- at the end of the house; correct?

17 MR. NEWMAN: Not quite correct. Several officers
18 responded. Two officers -- officers along with a sergeant went
19 down the side of the house. One of the officers who went down
20 with the sergeant was able to see through a window, the back
21 bedroom, where he saw three individuals. He also saw that they
22 had a handgun in the back bedroom and it had been disassembled.

23 Later, the sergeant in charge instructed that the
24 officers put on helmets and they put on their vests. The
25 officer who did the shooting went to the back. He was -- he

1 stationed himself or positioned himself across from this back
2 bedroom. There was a sliding glass door. The sliding glass
3 door, you can see a little bit inside, but they can't -- the
4 people inside cannot see outside.

5 The officers were very secretive in their movements.
6 They didn't want to alert the individuals inside that they were
7 outside.

8 THE COURT: I -- I lost you a bit already.

9 When the police first responded, you say that the -- that
10 the sergeant and some other officers walked up this pathway.

11 MR. NEWMAN: Correct.

12 THE COURT: And were -- and were quiet about it,
13 didn't announce their presence.

14 MR. NEWMAN: Never -- at no time did they ever
15 announce their presence.

16 THE COURT: And they looked -- they were able to see
17 into this back bedroom from the path; correct?

18 MR. NEWMAN: Correct.

19 THE COURT: And in the back bedroom, they saw three
20 individuals -- I think it was two men and a woman; correct?

21 MR. NEWMAN: Correct.

22 THE COURT: And they saw a handgun which was
23 disassembled, you said.

24 MR. NEWMAN: At some point it was disassembled.
25 They had taken it apart.

1 THE COURT: So the officers watched the persons in
2 the house disassemble the gun?

3 MR. NEWMAN: They saw the gun, and they saw it
4 broken down and disassembled. That's --

5 THE COURT: And did they see the gun when it was
6 assembled?

7 MR. NEWMAN: I think they might have saw it at one
8 point when it was assembled, and then they saw it disassembled.

9 THE COURT: And how long were they observing --
10 secretly observing this bedroom?

11 MR. NEWMAN: I'm not quite sure of the time span.
12 It was a few minutes or so.

13 THE COURT: And then they went back to the street
14 and -- and developed a game plan?

15 MR. NEWMAN: Yes. Reinforcements arrived, and part
16 of the reinforcements was the -- the shooter in this incident.

17 THE COURT: And what does the record show about what
18 the shooter -- what was his name? We should address him by
19 name.

20 MR. NEWMAN: Officer Maynard.

21 THE COURT: Maynard.

22 What does the evidence show regarding the observations of
23 the first responders about the gun in the back bedroom?

24 MR. NEWMAN: That the first responders, their
25 observation was they saw these individuals with a gun in a back

1 room.

2 THE COURT: Is that what Maynard knew?

3 MR. NEWMAN: Um, I think it was communicated to all
4 officers.

5 THE COURT: All right.

6 MR. NEWMAN: I'm not sure.

7 THE COURT: And so they put on these vests; correct?

8 MR. NEWMAN: Maynard -- and I believe the other
9 officers put on their vests.

10 THE COURT: And so -- so I take it that Maynard
11 basically walked to the position that the first responders were
12 at when they looked into the bedroom.

13 MR. NEWMAN: He went past that position. He
14 positioned himself farther back in the backyard behind a wall
15 where he had a view of the back bedroom sliding glass door.

16 THE COURT: So there was a sliding glass door from
17 the bedroom onto the backyard?

18 MR. NEWMAN: Correct.

19 THE COURT: Or was it a porch? It was just a
20 sliding glass door.

21 MR. NEWMAN: Yes.

22 THE COURT: And you say he was behind the wall?

23 MR. NEWMAN: Yes.

24 THE COURT: And then what happened was that the
25 plaintiff -- well, you tell me because there's some dispute

1 about who came out of the bedroom; correct?

2 MR. NEWMAN: Yes. Mr. Ferguson-Cassidy never exited
3 the bedroom. He was shot inside the bedroom. He went to open
4 the sliding glass door, and the next thing he knew he was shot.
5 And he fell back into the bedroom.

6 THE COURT: And what did the officers say happened?

7 MR. NEWMAN: I think the officer -- he made three
8 different statements. I think the final statement was he said
9 he thought he saw a gun.

10 MR. DUNCAN: I -- may I --

11 THE COURT: Just one minute. Okay.

12 And -- and when the officers investigated, did they find
13 the gun?

14 MR. NEWMAN: The gun was inside the -- the back
15 bedroom, yes.

16 THE COURT: And was it assembled or unassembled?

17 MR. NEWMAN: I believe it was assembled at that
18 time. They had put it back together.

19 THE COURT: And how long did this whole event occur
20 in?

21 MR. NEWMAN: It was a matter of minutes. 10,
22 15 minutes. I'm not sure.

23 THE COURT: Let me hear from the defendant, then
24 I'll get back to you.

25 How do you view the case?

1 MR. BRENTE: The fact -- the facts, Your Honor, is
2 that --

3 THE COURT: Facts.

4 MR. BRENTE: Okay. So the Court covered this with
5 plaintiff's counsel. It is true the neighbor did call as
6 reported, said he either heard gunfire or fireworks and he
7 heard the sound of dry firing a pistol. He indicated he was a
8 sport shooter and knew what the sound of someone firing a gun
9 with no bullets in it sounded like.

10 The officers responded. It's, first, a sergeant and two
11 officers. And the initial plan was to knock on the front door
12 of the residence and see if they could get a response. The
13 officers knocked on the door multiple times, and nobody came to
14 the front door.

15 The officers and the supervisor then decided to walk down
16 what is the east side of the residence. They walked down the
17 residence -- the side of the residence. And as you get to the
18 back of the residence, if you're walking along the wall, it
19 then cuts in and it goes like this (indicating).

20 THE COURT: What wall? There's a wall --

21 MR. BRENTE: The side of the house.

22 THE COURT: There's a wall?

23 MR. BRENTE: Right. So as you're walking just next
24 to the house, adjacent to the house, you're walking down a
25 pathway that's next to the house. And when you get to the

1 back, it cuts in, and then there's, like, a back patio there.
2 So there's a corner that's developed.

3 And the lead officer, when he gets down to the end where
4 this back patio is, he looks into the sliding glass door. He
5 sees three individuals, and they're manipulating, handling a
6 pistol. He tells the other officers and the supervisor that
7 they're there and they're handling a pistol.

8 The supervisor then decides that he wants to get
9 additional resources there because there's three officers right
10 then and there's three suspects. The supervisor goes out
11 front, and he requests additional resources and he tells the
12 two officers, "Stay here and just keep your eyes on the
13 individuals with the gun."

14 He requests additional resources and a police helicopter.
15 His plan is to get enough resources there around the house and
16 then have the LAPD helicopter, through its PA system, order the
17 people out so they come out orderly one at a time.

18 Other resources arrive, including Officer Maynard. He is
19 a designated officer to carry a police rifle. And he is
20 instructed to get his police rifle, which is an M16, and to put
21 on the tactical vest and the helmet. His partner officer has a
22 shotgun, department-issued shotgun and a tactical vest.

23 They go down the side of the house to relieve the two
24 original officers that were there, to tell them to go put on
25 their tactical helmets. And he's told that the individuals in

1 the back have the gun. His job -- their job at that time is
2 just to stay there and observe, not to do anything until
3 everyone's in place. And then the supervisor's going to have
4 the police helicopter order everyone out.

5 As Officer Maynard is standing there on the corner
6 watching into the back bedroom, the plaintiff, without being
7 asked, on his own, walks out into the backyard.

8 When the plaintiff was interviewed by the police
9 department at the hospital -- and it's all tape-recorded -- he
10 said that that night him and the other two were firing the gun
11 into the air. And the -- the other gentleman and the young
12 lady had already fired the gun. This is the weekend before the
13 4th of July holiday. And he was going out to take his turn to
14 fire the pistol.

15 In his recorded statement, he says he walks out with the
16 pistol in his right hand and he's shot.

17 Officer Maynard's -- a lot of what Officer Maynard says
18 is recorded because him and his partner had devices issued by
19 the police department to record what they say.

20 Officer Maynard is on the corner. He's got his police
21 rifle. He sees the plaintiff come out. He sees the plaintiff
22 holding the Ruger 9 millimeter pistol, which was recovered
23 later and loaded.

24 He yells at the plaintiff a phrase that includes a -- a
25 cuss word, for lack of a better phrase. And he says that the

1 plaintiff turns in his direction and points the handgun at him,
2 Officer Maynard. And Officer Maynard then fires six rounds,
3 one of which strikes the plaintiff in the right upper chest.

4 The plaintiff then scrambles back into that back bedroom.
5 And then the officers then commence getting everyone out of the
6 house, including the plaintiff and the male and the female.
7 Additional supervisors are called. Our crime lab is called.
8 The scene is processed. The plaintiff's pistol -- the pistol
9 he had was recovered, examined, found to be loaded. So --

10 THE COURT: But getting back to the actual shooting.
11 When the plaintiff -- when the -- yeah, when the plaintiff left
12 the sliding glass door and went into the bedroom -- into the
13 backyard or the patio, at that point the officers had not
14 announced their presence. In other words, as far as the -- as
15 the plaintiff is concerned, he may have been going out to shoot
16 the pistol, but he didn't know that the house was surrounded by
17 officers.

18 MR. BRENTE: That is correct, Your Honor.

19 THE COURT: And so, as I remember when the case was
20 initially described to me, the central issue is the --
21 essentially, the warning that the -- that the officers gave,
22 isn't it? In other words, isn't part of the plaintiff's
23 contention that there -- there was either no warning or that
24 the officer shot as they were announcing their presence, giving
25 the plaintiff no chance to respond?

1 MR. BRENTE: I think --

2 THE COURT: I thought that was sort of a big part of
3 the case.

4 MR. BRENTE: Well, it is and it isn't. And the
5 reason I say it isn't is because in the plaintiff's statement
6 and in the record, he says he never, A, heard anything said by
7 any officer. Now, Officer Maynard, his statement is going to
8 be he didn't have time to say police. What he yelled was,
9 "Don't F'ing move." It's recorded. The recording is very loud
10 because he yells it. It's not spoken softly.

11 THE COURT: So what is the position that -- that
12 after that quick response, he did move and then he was shot?

13 MR. BRENTE: But the -- the position is that whether
14 the officer said police or not, in our perspective, it's not
15 relevant in this case because the plaintiff said he didn't hear
16 anything or see anything. So it's not as if he said, A, I
17 didn't know it was the police or, B, I didn't understand what
18 they said. He says, A, I never saw anything; and B, I never
19 heard anything.

20 THE COURT: So as I remember the narrative -- my
21 recollection could be off -- is that the only person who heard
22 the warning was -- was Maynard.

23 MR. BRENTE: Well, no. That's not accurate because
24 it's recorded so you can hear that -- the volume and the tone.
25 Multiple officers heard it because it's yelled.

1 THE COURT: But -- but, I mean, the plaintiff could
2 still contend that there was no warning because he never heard
3 a warning.

4 MR. BRENTE: He could contend that. The Court's
5 correct. I believe the distance, the approximate distance
6 between Officer Maynard and the plaintiff at the time of the
7 shooting is 15 feet. That's a relatively close distance.

8 THE COURT: But couldn't the plaintiff contend that
9 even if the officer said what you just described, that by
10 saying "Don't F'ing move" in a very loud, commanding way, a
11 reasonable person at 2:30 in the morning wouldn't necessarily
12 think that that was the police? And by not announcing police,
13 the police created the -- the -- the -- the opportunity for the
14 shooting.

15 MR. BRENTE: I think that argument could be made but
16 not in this case based on the facts in this case because the
17 plaintiff says he heard nothing. So he couldn't have been
18 reacting or not reacting to anything Officer Maynard says
19 because the plaintiff's version is "I heard nothing at all, and
20 I saw nothing at all."

21 THE COURT: So then he's out in the backyard. He's
22 going to shoot the gun up in the air. Maynard is not saying
23 the gun was pointed at him, does he?

24 MR. BRENTE: Yes. Maynard says that, as he sees the
25 plaintiff -- so now the plaintiff comes out. He identifies the

1 plaintiff has the pistol. So he, in a sense of urgency, yells
2 to the plaintiff, "Don't F'ing move." And as I indicated in
3 the recorded statement, it's very loud. The plaintiff turns in
4 his direction with the pistol. The officer, fearing that the
5 plaintiff is going to shoot at him or the other officers that
6 are standing behind him, fires his weapon.

7 THE COURT: Why wouldn't the -- why wouldn't someone
8 in the plaintiff's position move as he did on being startled
9 with a voice out of nowhere? In other words, don't you
10 generally move toward the -- the place that you hear the sound?

11 MR. BRENT: I think that might be. That might be
12 that people might turn in the direction of what they hear.
13 Whether or not they point something in that direction is
14 another argument.

15 But I think more importantly is the plaintiff doesn't
16 say, "I heard someone yell something and, upon hearing somebody
17 yell something, I turned in that direction and got shot." He
18 says, "I never heard anybody yell anything."

19 THE COURT: But the plaintiff, from your
20 description, was startled when he got shot because he never saw
21 or heard an officer. He got shot like a bolt out of the blue.

22 MR. BRENT: Well, according to the plaintiff's
23 version now, he's not even outside. He's standing inside the
24 sliding glass door, standing there, holding no gun, just
25 standing there, and he just gets shot.

1 THE COURT: Well, I mean, he can say that. To me,
2 it would be a more credible case if he said it the way I said
3 it, but --

4 MR. BRENTE: I appreciate the Court's --

5 THE COURT: -- but he's locked into his position.

6 Now, what about this wall? In other words, if Maynard is
7 behind the wall -- is it a brick wall or a cement wall?

8 MR. BRENTE: It's just the side of the house.

9 THE COURT: How high was it?

10 MR. BRENTE: Well, it's the height of the house.

11 THE COURT: So why -- why did Maynard think it
12 necessary to shoot if he could have taken cover behind the
13 wall?

14 MR. BRENTE: Well, because officers are told when
15 you -- when you see a threat, you have to -- Maynard's
16 right-handed. So to shoulder the weapon, if anything, he has
17 to kind of slice the pie, as they say, to get out to
18 confront -- I can't think of a better word -- the threat.

19 So we don't teach officers to hide. I mean, when you see
20 something like they did, you -- you address the threat and you
21 give appropriate commands to the threat. We don't teach
22 officers to -- to duck down and hide behind walls.

23 THE COURT: Well, it seems like the warning was
24 awfully quick.

25 MR. BRENTE: Well, it was. And -- but, again, the

1 officers are going to respond to what happens after -- as the
2 Court knows, the warning is -- is feasible. There are
3 certainly cases where no warning is given because the officer
4 has to react immediately. In this case --

5 THE COURT: So you're saying that if no warning had
6 been given and Maynard knew what he did and he saw a man
7 holding a gun in his hand, he had the -- he had license to
8 shoot?

9 MR. BRENTE: If he reasonably believed -- not just
10 holding a gun. That wouldn't be enough, Your Honor. If he
11 reasonably believed that the manner in which the plaintiff was
12 holding and pointing the weapon, if you reasonably believe that
13 that presented an imminent threat of death or serious bodily
14 injury to himself or others, he's entitled under the
15 Fourth Amendment to use deadly force.

16 THE COURT: But, of course, the context here is that
17 the officers knew for several minutes that there was a man in
18 the house with a gun. And they had reason to think that
19 whoever was in there had shot the gun.

20 MR. BRENTE: Correct.

21 THE COURT: And so what is so imminent?

22 MR. BRENTE: Well, what's imminent is -- as I
23 indicated, the plan was for no one to come out until everyone
24 was ready to call people out in an orderly fashion. But the
25 plaintiff on his own -- because according to his statement to

1 the department, he was coming out to take his turn to fire the
2 weapon.

3 So nobody ordered the plaintiff --

4 THE COURT: He -- he didn't know that the police
5 were there.

6 MR. BRENTE: That's true. But once, then, he steps
7 out with the weapon, the officers have to address that and give
8 him a command because now he's come out with the gun. They're
9 not going to stand behind the wall and -- I'm not being
10 sarcastic with the Court in saying, "He's out. He's got the
11 gun." That's just not what's going to happen. They're going
12 to address the threat.

13 THE COURT: It sounds to me like they're around
14 there for several minutes, accepting that Maynard sees the
15 plaintiff with the gun. And in the middle of the night he
16 says, you know, "F'ing stop," boom, shoots.

17 MR. BRENTE: Well, but --

18 THE COURT: I mean, how did the guy have any time to
19 respond to that?

20 MR. BRENTE: Well, from Officer Maynard's
21 perspective -- and this is a factual issue in the case -- is,
22 as -- when he yells, "Don't F'ing move," the shots are very
23 quickly thereafter. The plaintiff turns in his direction with
24 the pistol, and Officer Maynard believed that the plaintiff
25 presented an immediate threat of death or bodily injury to him.

1 THE COURT: Well, that's the jury question; right?

2 MR. BRENTE: I agree. And as the Court knows from
3 the jury instruction, it's judged from the perspective of the
4 officer, a reasonable officer, his perspective.

5 THE COURT: Oh, yeah. I get that.

6 Now, let me go through some of these in limine motions.

7 Were there any administrative investigations in this case
8 of any kind?

9 MR. BRENTE: There were.

10 THE COURT: And I mean use of force. And what was
11 the result of that?

12 MR. BRENTE: The final result from the Chief of
13 Police -- from the Board of Police Commissioners was that
14 Officer Maynard's shooting was found to be out of policy.

15 THE COURT: And so you made a motion to -- to keep
16 that out from the jury?

17 MR. BRENTE: Yes.

18 THE COURT: Why is that?

19 MR. BRENTE: Because the department's administrative
20 findings are -- are not relevant to what this jury is going to
21 decide. So what the Board of Police Commissioners decide is
22 not the same thing that this jury is going to decide. They're
23 going to decide whether or not Officer Maynard violated the
24 plaintiff's Fourth Amendment rights. That's not what the --

25 THE COURT: Whoa, whoa, whoa. When they say "out of

1 policy," what policy are they referring to?

2 MR. NEWMAN: Well, in this case, um, Officer Maynard
3 was wearing -- the vest that he was wearing, the tactical vest
4 that he put over his uniform was his own, and it was devoid of
5 any police markings. And so that was the impetus to find the
6 shooting out of policy as well as the department's -- the Board
7 of Police Commissioners' determination that Officer Maynard
8 should not have stepped away from cover and addressed the
9 plaintiff.

10 Parenthetically, Officer Maynard then exercised his
11 rights to go to a Board of Rights, which is essentially like a
12 court martial and was found not guilty by a Board of Rights,
13 which is the -- LAPD's equivalent of a court martial, not
14 guilty of using excessive force.

15 THE COURT: So the initial finding, was that also
16 made by the police?

17 MR. BRENTE: The initial finding was by -- what's
18 called the Use-of-Force Review Board, which was -- is an LAPD
19 body, and they found it in policy.

20 The Chief recommended to the Board of Police
21 Commissioners that it be out of policy. That's what the Board
22 of Police Commissioners found.

23 Officer Maynard then exercised his right for an
24 administrative hearing before a three-member tribunal and at
25 that tribunal was found not guilty of excessive force.

1 THE COURT: So you're saying that to the extent any
2 of these investigations have a place in the case, then at a
3 minimum they all do?

4 MR. BRENT: Well, yes. I would say if any of
5 them -- I would say the Court's correct. I don't think any of
6 them should come in. But if the Court says some, then they all
7 should. But the Use-of-Force Review Board found, which is five
8 members, and what happened at the Board of Rights, which was
9 his court martial, that he was found not guilty.

10 And I do think we start getting into mini-trials about
11 what happens at these various boards, what happens at a Board
12 of Rights, you know, then --

13 THE COURT: I understand.

14 What about the -- what is the plaintiff's intent, if any,
15 in -- with regard to the motion regarding suggestions or
16 inferences of other lawsuits, claims, judgments against the
17 City of Los Angeles? Do you intend to get into any of that?

18 MR. NEWMAN: We have -- we don't plan to. We
19 haven't been provided. We're still waiting for another piece
20 of discovery to come in, but we haven't received any
21 indication, any discovery that would give us any impetus to say
22 that.

23 THE COURT: All right. So there won't be any
24 evidence in that regard.

25 The motion to exclude plaintiff's experts, Ashley,

1 MR. BRENTE: Okay.

2 THE COURT: And how far away was the -- was Maynard
3 from the defendant when the shots occurred?

4 MR. BRENTE: About 15 feet, Your Honor.

5 THE COURT: And was it -- was there any obstruction
6 other than the wall?

7 MR. BRENTE: No, Your Honor.

8 THE COURT: And when -- when Maynard shot, he
9 obviously had to get -- he came from behind the wall; correct?

10 MR. BRENTE: He stepped away from the wall to
11 address the threat and shoulder his rifle. He's a right-handed
12 shooter.

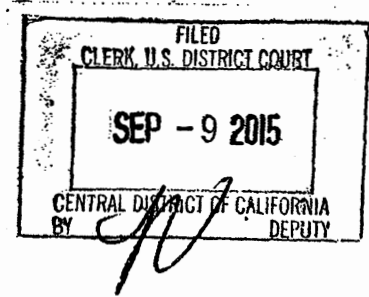
13 THE COURT: Was any part of his body still sheltered
14 by the wall when he shot, or was he open?

15 MR. BRENTE: I think he was mostly open when he
16 fired.

17 THE COURT: All right.

18 MR. BRENTE: Thank you, Your Honor.

19 (Proceedings concluded at 5:49 p.m.)
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CASH JEROME FERGUSON-CASSIDY,)
Plaintiff,)
vs.)
CITY OF LOS ANGELES; LOS)
ANGELES POLICE DEPARTMENT; and)
JACOB MAYNARD, Police Officer II,)
LAPD Serial No. 34820, in his official and)
individual capacity,)
Defendants.)

14-CV-06768 SVW
COURT'S INSTRUCTIONS
TO THE JURY

JURY INSTRUCTIONS

Dated: September 9, 2015

1 Members of the Jury: Now that you have heard all of the evidence and the arguments of the
2 attorneys, it is my duty to instruct you as to the law of the case.

3 A copy of these instructions will be sent with you to the jury room when you deliberate.

4 You must not infer from these instructions or from anything I may say or do as indicating that
5 I have an opinion regarding the evidence or what your verdict should be.

6 It is your duty to find the facts from all the evidence in the case. To those facts you will apply
7 the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not.
8 And you must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy.
9 That means that you must decide the case solely on the evidence before you. You will recall that you
10 took an oath to do so.

11 In following my instructions, you must follow all of them and not single out some and ignore
12 others; they are all important.

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When a party has the burden of proof on any claim by a preponderance of the evidence, it means you must be persuaded by the evidence that the claim is more probably true than not true.

You should base your decision on all of the evidence, regardless of which party presented it.

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The evidence you are to consider in deciding what the facts are consists of:

1. the sworn testimony of any witness;
2. the exhibits which are received into evidence; and
3. any facts to which the lawyers have agreed.

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In reaching your verdict, you may consider only the testimony and exhibits received into evidence. Certain things are not evidence, and you may not consider them in deciding what the facts are. I will list them for you:

(1) Arguments and statements by lawyers are not evidence. The lawyers are not witnesses. What they have said in their opening statements, closing arguments, and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers have stated them, your memory of them controls.

(2) Questions and objections by lawyers are not evidence. Attorneys have a duty to their clients to object when they believe a question is improper under the rules of evidence. You should not be influenced by the objection or by the court's ruling on it.

(3) Testimony that has been excluded or stricken, or that you have been instructed to disregard, is not evidence and must not be considered. In addition sometimes testimony and exhibits are received only for a limited purpose; when I have given a limiting instruction, you must follow it.

(4) Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

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Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is proof of one or more facts from which you could find another fact. You should consider both kinds of evidence. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

1 In deciding the facts in this case, you may have to decide which testimony to believe and which
2 testimony not to believe. You may believe everything a witness says, or part of it, or none of it. Proof
of a fact does not necessarily depend on the number of witnesses who testify about it.

3 In considering the testimony of any witness, you may take into account:

- 4 (1) the opportunity and ability of the witness to see or hear or know the things testified to;
- 5 (2) the witness's memory;
- 6 (3) the witness's manner while testifying;
- 7 (4) the witness's interest in the outcome of the case and any bias or prejudice;
- 8 (5) whether other evidence contradicted the witness's testimony;
- 9 (6) the reasonableness of the witness's testimony in light of all the evidence; and
- 10 (7) any other factors that bear on believability.

11 The weight of the evidence as to a fact does not necessarily depend on the number of witnesses
12 who testify about it.

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Some witnesses, because of education or experience, are permitted to state opinions and the reasons for those opinions.

Opinion testimony should be judged just like any other testimony. You may accept it or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the reasons given for the opinion, and all the other evidence in the case.

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The plaintiff brings his claims under the federal statute, 42 U.S.C. § 1983, which provides that any person or persons who, under color of law, deprives another of any rights, privileges, or immunities secured by the Constitution or laws of the United States shall be liable to the injured party.

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In order to establish that the acts of the defendant, Jacob Maynard, deprived the plaintiff of his particular rights under the United States Constitution as explained in later instructions, the plaintiff must prove by a preponderance of the evidence, that the acts of that particular defendant were so closely related to the deprivation of the plaintiff's rights as to be the moving force that caused the ultimate injury.

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In order to prevail on his § 1983 claims against the defendant Jacob Maynard, the plaintiff must prove the following elements by a preponderance of the evidence:

- (1) the defendant acted under color of law; and
- (2) the acts of the defendant deprived the plaintiff of his particular rights under the United States Constitution as explained in later instructions.

A person acts "under color of law" when the person acts or purports to act in the performance of official duties under any state, county, or municipal law, ordinance, or regulation. I instruct you that the defendant acted under color of law.

If you find the plaintiff has proved each of these elements, and if you find that the plaintiff has proved all elements he is required to prove under these instructions, your verdict should be for the plaintiff. If, on the other hand, the plaintiff has failed to prove any one or more of these elements, your verdict should be for the defendant.

1 In general, a seizure of a person is unreasonable under the Fourth Amendment if a police
2 officer uses excessive force in making a lawful arrest or in defending himself or others. Thus, in order
3 to prove an unreasonable seizure in this case, the plaintiff must prove by a preponderance of the evidence
4 that the officer used excessive force when Officer Jacob Maynard shot plaintiff Cash Jerome Ferguson-
5 Cassidy.

6 Under the Fourth Amendment, a police officer may only use such force as is “objectively
7 reasonable” under all of the circumstances. In other words, you must judge the reasonableness of a
8 particular use of force from the perspective of a reasonable officer on the scene and not with the 20/20
9 vision of hindsight.

10 In determining whether the officer used excessive force in this case, consider all of the
11 circumstances known to the officer on the scene, including:

- 12 1. The severity of the crime or other circumstances to which the officer was responding;
 - 13 2. Whether the plaintiff posed an immediate threat to the safety of the officer or to others;
 - 14 3. Whether the plaintiff was actively resisting arrest or attempting to evade arrest by flight;
 - 15 4. The amount of time and any changing circumstances during which the officer had to determine
16 the type and amount of force that appeared to be necessary;
 - 17 5. The type and amount of force used; and
 - 18 6. The availability of alternative methods to detain the plaintiff
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Although the plaintiff does not need to prove the defendant intended to violate the plaintiff's Fourth Amendment rights, it is not enough if the plaintiff only proves the defendant acted negligently, accidentally or inadvertently.

1 When you begin your deliberations, you should elect one member of the jury as your presiding
2 juror. That person will preside over the deliberations and speak for you here in court.

3 You will then discuss the case with your fellow jurors to reach agreement if you can do so. Your
4 verdict must be unanimous.

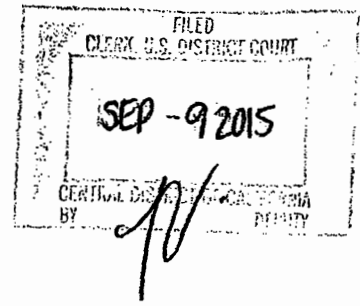
5 Each of you must decide the case for yourself, but you should do so only after you have
6 considered all of the evidence, discussed it fully with the other jurors, and listened to the views of your
7 fellow jurors.

8 Do not hesitate to change your opinion if the discussion persuades you that you should. Do not
9 come to a decision simply because other jurors think it is right.

10 It is important that you attempt to reach a unanimous verdict but, of course, only if each of you
11 can do so after having made your own conscientious decision. Do not change an honest belief about the
12 weight and effect of the evidence simply to reach a verdict.
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If it becomes necessary during your deliberations to communicate with me, you may send a note through the bailiff, signed by your presiding juror or by one or more members of the jury. No member of the jury should ever attempt to communicate with me except by a signed writing; I will communicate with any member of the jury on anything concerning the case only in writing, or here in open court. If you send out a question, I will consult with the parties before answering it, which may take some time. You may continue your deliberations while waiting for the answer to any question. Remember that you are not to tell anyone—including me—how the jury stands, numerically or otherwise, until after you have reached a unanimous verdict or have been discharged. Do not disclose any vote count in any note to the court.



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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Cash Jerome Ferguson-Cassidy,
Plaintiff
vs.
City of Los Angeles et al,
Defendant.

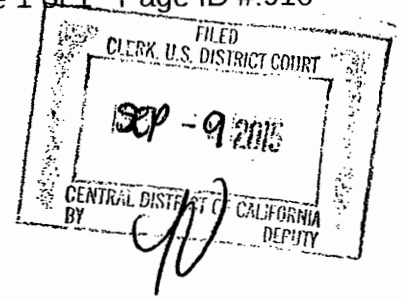
CASE NO.: 2:14-cv-06768-SVW-JPR
VERDICT

WE THE JURY, in the above entitled action find in favor of
_____ Plaintiff ~~_____~~ Defendant

DATE: 9/9/15

Redacted

FOREPERSON



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Case No. CV 14-06768-SVW-JPR

Title: Cash Jerome Ferguson-Cassidy v. City of Los Angeles, et al.

Date: 9/9
Time: 6:25

JURY NOTE NUMBER 2

X

THE JURY HAS REACHED A UNANIMOUS VERDICT

THE JURY REQUESTS THE FOLLOWING:

DATE:

SIGNED: _____
FOREPERSON OF THE JURY

FILED
CLERK, U.S. DISTRICT COURT
09/10/15
CENTRAL DISTRICT OF CALIFORNIA
BY: IV DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

Cash Jerome Ferguson-Cassidy

CASE NUMBER

CV 14-06768-SVW-JPR

PLAINTIFF(S)

v.

City of Los Angeles et al

JUDGMENT ON THE VERDICT
FOR DEFENDANT(S)

DEFENDANT(S).

This action having been tried before the Court sitting with a jury, the Honorable STEPHEN V. WILSON, District Judge, presiding; the issues having been duly tried and the jury having duly rendered its verdict.

IT IS ORDERED AND ADJUDGED that the plaintiff(s):

Cash Jerome Ferguson-Cassidy

take nothing; that the action be dismissed on the merits; and that the defendant(s):

Jacob Maynard

recover of the plaintiff(s) its costs of action, taxed in the sum of TO BE DETERMIED.

Clerk, U. S. District Court

Dated: September 10, 2015

By 
Deputy Clerk

At: Los Angeles, California

cc: Counsel of record

UNITED STATES DISTRICT COURT

Central District of California

APPLICATION TO THE CLERK TO TAX COSTS

CASH JEROME FERGUSON-CASSIDY

v.

Case Number: CV14-06768 SVW (JPRx)

CITY OF LOS ANGELES, et al.

Judgment was entered in this action on 9/11/2015 / 118 against Plaintiff

NO HEARING ON THIS APPLICATION WILL BE HELD UNLESS THE CLERK NOTIFIES THE PARTIES OTHERWISE.

Table with 2 columns: Description of costs (e.g., Filing fees, Witness fees, Depositions) and Amount. Total amount is \$2,888.39.

NOTE: You must attach an itemization and documentation supporting all requested fees and costs. Documentation includes receipts, orders, and stipulations. All receipts must be self-explanatory.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this application has been served on all parties by:

- Checkboxes for service methods: The Court's CM/ECF System (checked), Conventional service by first class mail, Other.

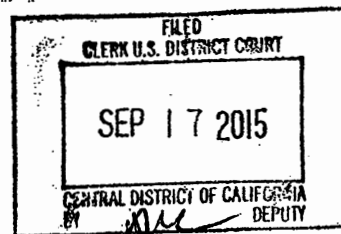
Handwritten signature of Colleen R. Smith

Colleen R. Smith, DCA
Print Name

Attorney for: City of Los Angeles, et al.

Costs are taxed in the amount of

By: Clerk of Court / Deputy Clerk / Date



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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CASH JEROME FERGUSON-CASSIDY,
Plaintiff,

vs.

CITY OF LOS ANGELES, LOS ANGELES
POLICE DEPARTMENT, and JACOB
MAYNARD, Police Officer II, LAPD Serial
No. 34820, in his official and individual
capacity.

Defendants.

CASE NO. CV14-06768 SVW (JPRx)
Hon. Stephen V. Wilson - Ctrm. 6, 2nd Fl
Hon. Mag. Jean P. Rosenbluth - Ctrm. A, 8th Fl

~~PROPOSED~~ JUDGMENT RE:
**OFFICER JACOB MAYNARD,
THE CITY OF LOS ANGELES,
AND LOS ANGELES POLICE
DEPARTMENT**

This action came on regularly for trial on September 8, 2015, in Courtroom "6" of the United States District Court, Central District of California, Central Division, the Honorable Stephen V. Wilson, Judge Presiding. The Plaintiff CASH JEROME FERGUSON-CASSIDY, was present and represented by attorneys Frank Duncan and Ray Newman. The Defendant JACOB MAYNARD was present and represented by Kevin Gilbert. The Defendants CITY OF LOS ANGELES and LOS ANGELES POLICE DEPARTMENT were present and represented by attorneys Colleen R. Smith and Cory M. Brente.

1 ///

2 The trial was bifurcated, with phase I addressing liability only.

3 A jury of 8 persons was regularly impaneled and sworn on September 8, 2015.

4 Witnesses were sworn and testified. After hearing the evidence and arguments of counsel,

5 the jury was duly instructed by the Court, and the cause was submitted to the jury with

6 directions to return a verdict on the liability phase. The jury deliberated and thereafter

7 returned into the court with its verdict consisting of the issues submitted to the jury and the

8 answers given thereto by the jury, which said in words and figures as follows, to-wit:

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JUDGMENT ON SPECIAL VERDICT

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QUESTION NO. 1: Do you find for the Plaintiff or the Defendant?

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_____ Plaintiff **X** _____ Defendant

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Please date, sign, and return this form. Thank you.

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DATED: _____ /s/ _____

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**REDACTED AS TO
FOREPERSON'S NAME**

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Based on the jury's finding for the Defendant JACOB MAYNARD in phase I, the

22

liability phase, the Plaintiff's claims for damages, including punitive damages, *Monell*, and

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all state law claims are dismissed with prejudice.

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By reason of dismissals, the rulings of the Court, and the special verdict, Defendants

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CITY OF LOS ANGELES, LOS ANGELES POLICE DEPARTMENT and JACOB

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MAYNARD are entitled to judgment against Plaintiff CASH JEROME FERGUSON-

27

CASSIDY.

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Now, therefore, it is **ORDERED, ADJUDGED AND DECREED** that Plaintiff

1 CASH JEROME FERGUSON-CASSIDY, have and recover nothing by reason of each and
2 all his claims as set forth in the Complaint against Defendants CITY OF LOS ANGELES,
3 LOS ANGELES POLICE DEPARTMENT and JACOB MAYNARD and that Defendants
4 shall recover their costs in accordance with Local Rule 54.

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6 DATED: 9/17/15



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8 **HONORABLE STEPHEN V. WILSON**
9 **UNITED STATES DISTRICT COURT**
10 **JUDGE**

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UNITED STATES DISTRICT COURT

Central District of California

APPLICATION TO THE CLERK TO TAX COSTS

CASH JEROME FERGUSON-CASSIDY

Case Number: CV14-06768 SVW (JPRx)

V.

CITY OF LOS ANGELES, et al.

Judgment was entered in this action on 9/17/15 /120 against Plaintiff
Date Docket No.

NO HEARING ON THIS APPLICATION WILL BE HELD UNLESS THE CLERK NOTIFIES THE PARTIES OTHERWISE.

Table with 2 columns: Description of costs (e.g., Filing fees, Depositions, Witness fees) and Amount. Total amount is 10,897.15.

NOTE: You must attach an itemization and documentation supporting all requested fees and costs. Documentation includes receipts, orders, and stipulations. All receipts must be self-explanatory.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have charged were actually and necessarily performed. A copy of this bill has been served on all parties by:

- Checked box: The Court's CM/ECF System
Unchecked box: Conventional service by first class mail
Unchecked box: Other

Signature: [Handwritten Signature]
Print Name: Kevin E. Gilbert, Esq.

Attorney for: Defendant Officer Jacob Maynard
Costs are taxed in the amount of

Clerk of Court By: Deputy Clerk Date

