

Hermosa Beach Police Department

Press Release

May 31, 2007 (For Immediate Release)

“Jury Clears Hermosa Beach Sergeant in Use of Force Lawsuit”

PIO: Sergeant Paul A. Wolcott

Synopsis:

A Federal Jury voted unanimously yesterday (5-30-07) to clear Hermosa Beach Police Sergeant Raul Saldana of charges that he used excessive force when he used pepper spray on a resistive intoxicated individual.

Details:

A Federal jury found that Hermosa Beach Police Sergeant Raul Saldana used the appropriate force necessary to subdue an intoxicated, resistive Kenneth Agner. Sgt. Saldana deployed pepper spray, a highly effective tool used to deal with resistive subjects.

On July 4, 2003 Kenneth Agner was arrested for Public Intoxication. While officers waited for a police car to transport Agner to jail, he continued to exhibit belligerent intoxicated behavior. During this time a large crowd gathered as Agner's behavior escalated. An amateur video crew caught the action on video tape.

Once the police car arrived Agner was moved to the car. He became actively resistive to the efforts of the officers to place him in the car. Sergeant Saldana deployed his departmentally issued pepper spray at Agner as a low level force distraction to facilitate moving Agner into the police car. Agner was subsequently placed into the vehicle without further incident. Agner was transported to the Hermosa Beach City Jail and later released on his own recognizance. A plea arrangement was made with prosecutors and Agner paid a fine for his arrest.

Agner filed a Federal lawsuit against the Hermosa Beach Police Department alleging excessive force, violation of civil rights, etcetera. He named multiple officers including former Chief of Police Michael Lavin.

The first trial was held at the Federal Courthouse in downtown Los Angeles during the summer of 2006. During that trial the jury rejected all of the claims made by Agner against the City, the Department, and its officers. However, the jury hung 7-1 in favor of Sergeant Saldana on whether or not the force he used to compel Agner to get into the police car was excessive or not.

Agner, through his attorney, re-filed the allegations against Sergeant Saldana. The weeklong second trial was also held at the downtown Los Angeles Federal Courthouse.

The Federal Court jury returned their unanimous decision exonerating Sergeant Saldana and thereby endorsing his actions.

Agner faces the probability of paying court costs that could reach up to \$40,000.00 as a result of his failed lawsuits against the Hermosa Beach Police Department.

The city was again successfully represented by attorneys S. Frank Harrell and Shannon Gustafson of the law firm Lynberg & Watkins of Orange, California.