

12/26/93

JAMES J. FYFE
DEPOSITION AND TRIAL TESTIMONY
1989-PRESENT

I have not kept a systematic list of cases in which I have testified, but the following list of lawyers, institutions, and cases in which I have testified is about as comprehensive as I can get:

John Birkemeier, Office of the Arizona Attorney General: testified at trial in defense case, 1990 (Arnsperger v. Arizona).

This was an allegation that an Arizona State Trooper failed to adequately protect a family whose car had broken down in a blizzard and who refused to be taken to a local town or to use a towing service. Verdict for plaintiff.

Steven Lamar, Phoenix AZ, Gallagher & Kennedy: testified at deposition for defendant in state court (Phoenix) in 1990 (Mack v. Cochise County). This was an allegation that Arizona Department of Public Safety failed to advise another police agency (who had never contacted DPS) that an officer they hired had been the subject of sexual harassment complaints some years before; summary judgment for defendant.

Carter Stroud, Alameda (CA) City Attorney: deposition for defense in several federal court matters, 1987-1991. One (Wilkes v. Alameda) pending; others resolved by summary judgments. Cases now handled by Bertrand & Cohn, Larkspur CA.

David Donner, Larkspur CA: Deposition and trial testimony for defense in federal matter (Brindis v. Hayward) alleging wrongful death by police shooting, 1992; defense verdict.

Barrett Litt, Los Angeles CA: Testified at trial for plaintiff in state court, Los Angeles, 1989 in Melgar v. Klee, wrongful police shooting; verdict for plaintiff.

Hugh Manes, Los Angeles CA: consulted and testified in plaintiff's case (Dennis v. Tauson) alleging use of excessive force by police dog (dog had bitten off nose of unresisting larceny suspect) in federal court, Los Angeles, 1992. Defense verdict.

Stephen Yagman, Los Angeles CA: testified at trial for plaintiff in Berry v. Gates, unarmed suspect suffered 37 shotgun wounds in back, several in soles of feet, none in front of torso; verdict for defense, 1990; appeal pending. Testified at 1992 trial in Gomez v. Gates, suspects allegedly armed with unloaded bee-bee guns suffered 98 wounds in back, none in front; verdict for plaintiff. Both cases in USDC, Los Angeles.

Lloyd Took, San Diego CA: deposition and trial testimony for plaintiff in federal case, 1991 (Forrester v. San Diego), alleging wrongful use of *nunchukas* against non-violent

participants in peaceful demonstration. Defendant's verdict; appeal filed.

Ralph Greene, San Jose City Attorney's Office, San Jose CA: testified at trial for defendant in federal court (Ward v. San Jose), San Jose in 1989, alleging wrongful shooting death of intoxicated man who suddenly confronted police with sawed-off shotgun. Verdict for plaintiff; the judge was indicted on federal racketeering charges in the middle of this trial. Reversed on appeal.

Mark Lassiter, Torrance CA: testified for plaintiff in motion for federal injunction against continued LAPD use of nunchukas against non-violent participants in peaceful demonstrations, May 1991 (John v. Los Angeles). Defendant settled by agreeing to permanent injunction and paying all legal costs. Damages portion of case pending in separate actions in state court, Los Angeles.

Wade Eldridge, Denver CO: testified at trial in a plaintiff's case in federal court, Denver, 1991 (Zuchel v. Spinharney). This was a wrongful shooting of a drunk who was armed with a nail clipper. Verdict for plaintiff.

Barry Boodman, Bridgeport CT: testified for plaintiff in federal case, Bridgeport, 1991 (Pfeffer v. Stamford). Police officer forced his way into a house to settle a civil landlord-tenant dispute. Landlord's 60+ year-old father was injured, arrested, and wrongfully detained; verdict for plaintiff.

Barry Guerke, Dover DE: testified for plaintiff in Delaware state court case alleging improper restraint of mentally disturbed person by constable transporting him to mental hospital commitment (Morris v. Blake). Man had been placed unrestrained in back seat of ordinary passenger car for involuntary transport to mental hospital, guarded only by constable's untrained uncle working for \$15 tip. Man opened door and jumped from car as it was moving. Verdict for plaintiff, July 1991; affirmed on appeal, June 1992.

District of Columbia City Attorney's Office: amici curiae brief ("Five Concerned Washington Area Criminal Justice Scholars") in defense case, United States Supreme Court (Parker v. DC, et. al., certiorari denied, 1989). This was a case alleging wrongful shooting of armed robbery suspect who was in process of kidnapping a woman and who had overpowered a police officer during his flight.

Dean Swartz, District of Columbia: deposition in a federal case in Goldsboro NC, 1990 (Swann v. Goldsboro). This involved chokehold death of man who had done nothing but flee when police chased him in dark, high-crime housing project. Settled before

trial.

Ralph Lamar, Savannah GA: deposition and trial; testimony for defendant in federal case alleging wrongful police shooting of warrant suspect who disarmed police officer of baton and was beating him with it, Savannah, 1991 (Hill v. Cutchens); verdict for defendant.

Douglas King, Indianapolis IN: deposition and trial testimony in defense case, federal court, Indianapolis, 1988 or 1989 (Smith v. Bloomington); defense verdict. Police shot and killed 280 pound football star having apparent psychotic episode. Decedent had torn police officer's gun from holster and was struggling over it immediately prior to shooting.

Stephen Rosenberg, Chicago IL: Deposition in pending plaintiff's case in federal court (Clemons v. Springfield). Wrongful shooting of emotionally disturbed person. Chicago, 1990.

Edward T. Stein, Chicago IL: Deposition in federal case (Falk v. Chicago, et al., 1990) settled before trial. Woman wrongfully arrested, assaulted, and detained by police who had refused to stop her boyfriend from taking her car against her wishes. Force, wrongful detention, and failure to provide medical attention result in amputation of her leg. Deposition in a second case (Arana v. Martin) involving wrongful fatal shooting by off-duty officer during a traffic dispute; believe now pending.

William Van Herp, Covington KY: trial testimony for plaintiff in federal case, Covington KY, 1992 (Fant v. Miles). Wrongful arrest, assault, and detention of a woman involved in a minor domestic dispute. Verdict for plaintiff.

Gary Haverstock, Murray KY: Deposition in pending federal case (Rickman v. Smith), approximately 1990 for plaintiff. This was the wrongful back-shooting of an unarmed commercial burglary suspect who had surrendered and was climbing down a ladder to the police when he was shot.

Matthew Campbell, Gaithersburg MD: testified at prosecutor's request at Montgomery County MD grand jury proceeding re: police practices in State v. Albrecht, 1991. Consulted in subsequent criminal trial, officer convicted of manslaughter.

Michael Avery, Boston MA: testified in federal court, Boston, 1992 in Hendricks v. Mace, wrongful shooting death of fleeing drunk driving suspect. Settled at close of plaintiff's case, July 1992.

Howard Friedman, Boston MA: Testified in plaintiff's case, federal court, Boston 1992 (Howard v. Thompson), wrongful

beating, arrest, and detention of man at a noisy party. Verdict for plaintiff.

Robert Ferriby, Detroit MI: deposition in a plaintiff's case in Wayne County Court, 1990 (Houston v. Roseville). Wrongful shooting of drug suspect; settled before trial.

William Goodman, Detroit MI: Deposition for plaintiff in Lenart v. Calhoun County, state court, Wayne County, 1990; wrongful death of motorist during traffic pursuit; settled before trial. Deposition in Wilder v. Monroe County, state court, 1992; excessive force during warrant execution, settled before trial.

Michael Hathaway, Detroit MI: deposition for plaintiff in Wayne County court in Michigan Property and Casualty Guarenty Association v. City of Livonia, 1990. Disposition unknown.

Richard Ruby, Southfield MI: deposition for plaintiff in Ormsbee v. Chrysler, pending in state court, Macomb County. Alleges wrongful death of passenger during police vehicle pursuit.

Lawrence Mass, St. Louis MO: Deposition in pending plaintiff's case in federal court, St. Louis (Deex v. Stewart), 1991. This is a wrongful death in the police shooting of an emotionally disturbed person in his own home.

Joseph McDonough, Manchester NH: deposition, 1991, in defendant's case (Bissett v. Hooksett) in Manchester state court. Allegation is police were negligent in allowing a guest (who broke an ankle when he fell off a railroad tie) to run an obstacle course. Believe pending.

Jack Frost, Cherry Hill NJ: testified at trial in plaintiff's case in state court, 1991 (Decibus v. Woodbridge). This was an excessive force case that involved shots (missed) and the beating of a young man who fled from police when they found him driving his 4X4 truck around a large excavation site. Verdict for plaintiff.

Ronald Carlisi, Rochester NY: deposition in plaintiff's case in state court, Rochester NY (Loria v. Irondequoit). Wrongful arrest of traffic violator, unjustifiable shooting of his father. Settled before trial, 1991.

Terry Gilbert, Cleveland OH: deposition in pending plaintiffs' case, 1992 (Smith v. Elyria), alleging police failure to protect wife, sister, and daughter from man who killed wife, stabbed sister and daughter minutes after police refused repeated demands to respond to home on grounds that his threats were domestic.

Brian Dell, Oklahoma City OK: testified at trial in plaintiff's

case in federal court, Oklahoma City, 1990 (Rios v. Stupka). Alleged wrongful backshooting of unarmed fleeing suspect; verdict for plaintiff.

Grover Dahn, Portland OR: testified for plaintiff at trial of wrongful shooting case, federal court, Portland, 1991 (McCoy v. Portland). Allegation was wrongful shooting of unarmed man during police intervention into domestic dispute. Verdict for defendant.

Steven Feldman, Philadelphia PA: testified at trial in plaintiff's case in state court (Moore v. Philadelphia), Philadelphia, 1990. Wrongful shooting case; settled after jury hung.

Marlene Fleming, Philadelphia PA: testified at trial in plaintiff's case in federal court, Philadelphia (Strauss v. Philadelphia, 1992). Wrongful police shooting, verdict for plaintiff against police officers; verdict for defendant city under appeal.

Edward Rudley and Jonathan Bennett, Philadelphia PA: testified at trial in plaintiff's case in state court, Philadelphia, 1991 (Agresta v. Philadelphia); wrongful death by police shooting (unarmed, non-assaultive, fleeing man who had committed no crime believed pursuing police in unmarked car were organized crime killers. Man hit in back of head with shotgun rounds). Plaintiffs' verdict.

Alan Yatvin, Philadelphia PA: testified at trial in plaintiff's case in federal court, Philadelphia (Cahoe V. Johnson), April 1992. Unjustifiable police shooting of tenant during dispute with his landlord, an off-duty police officer. Verdict for plaintiff.

Joseph Johnston, Nashville TN: testified for plaintiff in federal court, Montgomery AL (Jones v. Montgomery), 1992. Failure to protect drunk driving arrestee who died in police custody in back seat of police car; verdict for plaintiff.

Scott Sanes, Houston TX: deposition and trial testimony in plaintiff's case, federal court, Houston, 1990-91 (Delaney v. Houston). Wrongful fatal shooting shooting by off-duty police officer in traffic dispute. Verdict for plaintiff; judgment subsequently increased by judge.

Curt Stuckey, Nacogdoches TX: deposition for plaintiff in pending Illinois state court matter (Wilson v. Hargrave), 1992. Wrongful arrest, excessive force, and failure render aid to prisoner.