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Date: 2006/08/15 Tuesday Page: A09 Section: NEWS Edition: FINAL Size:
623 words

U.S. judge finds evidence for civil rights suit against troopers

By RICK HEPP

Contradicting former Attorney General Peter Harvey's opinion that three state troopers used appropriate force to subdue a motorist after a traffic stop, a federal judge has ruled there is "sufficient evidence" for the driver to sue the officers for violating his rights.

Aundrey Green filed a civil rights lawsuit last year accusing the troopers – Robert Parry, Frederick Fife and Craig Brown – of using excessive force following a April 2002 late-night stop along a Cumberland County highway.

Green, 33, claimed the troopers punched, kicked and struck him with a flashlight even though he was handcuffed in the back seat of a patrol car. The troopers contended the force was needed because Green had slipped out of the handcuffs and was fighting back.

After the police videotape of the incident became public because of the lawsuit, then-Attorney General Harvey ordered the Office of State Police Affairs to look into the incident. The review, which included examining the videotape footage frame by frame, concluded there was "no excessive use of force."

U.S. District Court Judge Joseph E. Irenas disagreed with that assessment in a ruling on the state's motion to dismiss Green's lawsuit for lack of evidence.

"Green has put forth sufficient evidence that his Fourth Amendment rights were violated," Irenas wrote in the 16-page opinion issued last Wednesday. "Further, if any one of the officers is found to have used excessive force, all of the other officers could be found to have violated Green's Fourth Amendment rights by failing to stop the use of excessive force."

"The court concludes that a reasonable jury could find that the officers' actions were objectively unreasonable under the circumstances," Irenas found.

Green's attorney, Vincent Sanzone, called the ruling a victory for his client.

"A judge found that there is a question of fact: Who's lying? Who's telling the truth? Was there excessive force?" Sanzone said. "I'm very happy that the federal judge has allowed it to go before a jury to decide."

Attorney General's Office spokesman David Wald pointed out that the judge dismissed Green's other claims, including allegations that a State Police internal affairs investigator conspired with troopers at the scene to violate Green's civil rights.

"We were ruled against on one claim," Wald said. "We intend to continue to defend these troopers at trial."

David Jones, president of the State Troopers Fraternal Association, the union that represents the officers, said he was confident the troopers would prevail at a trial. "I'm not worried about that at all," he added.

A trial date has not been set for the lawsuit to be heard in U.S. District Court in Camden.

The troopers said they pulled over Green's blue Chevrolet Cavalier, in which Green's girlfriend and her two young children were passengers, after he raced past them at more than 105 mph. They placed him under arrest after Green gave them a fake name and the altercation began when Green threatened to urinate in the rear seat of the police cruiser.

The troopers contend they fought with Green only after he slipped out of his handcuffs and threw punches at them when they tried to remove him from the car. Green denied he slipped out of the handcuffs, although he did admit to wedging himself in the car to keep from being pulled outside.

Green later pleaded guilty to assaulting the troopers and served 11 months in state prison, although his current attorney claims Green was given bad advice in accepting a plea deal on the charges. Rick Hepp covers criminal justice. He may be reached at rhepp@starledger.com or (609) 989-0398.