

Dan Neville Redux: Judge Dismisses Remaining Charge
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In last month's edition of the PORAC News I reported about Shasta County Marshal's Sergeant Dan Neville. As you will recall, a jury acquitted Dan of using excessive force when he pepper-sprayed a deranged inmate. However, the jury deadlocked on a charge that Dan had authored a false police report.

The Shasta County District Attorney's Office decided that it would attempt to retry Sgt. Neville on this lone misdemeanor count. In response, our firm filed a motion to dismiss the case "in the furtherance of Justice." The prosecution's theory of the case had been that Dan had written the false report to cover-up his excessive force. Our central argument in moving to dismiss the charge, was that once the jury found that there was no excessive force, the false report charge must also fall by the wayside.

I am very gratified to report that Judge Robert A. Barclay, who presided over the trial, apparently found our arguments compelling: The Judge issued a rather pointed Order dismissing the case. The Judge wrote that, "regarding the evidence indicative of guilt or innocence, the court notes that the jury hung on the false report charge even when the evidence about that charge was accompanied by evidence regarding excessive force. It is unlikely that the prosecutor could obtain a conviction on the false report charge in the absence of that evidence."

Interestingly, the Judge added that, "regarding possible harassment, there is evidence that a representative of defendant's employer [i.e., the Marshal's Office] told defense counsel that the false report criminal charge would be dropped if defendant dropped his administrative challenge to his termination. This indicates that the retrial may be being used to harass defendant into relinquishing his administrative rights. At the very least, the court would consider this a flagrant attempt at usurpation of the powers of the criminal courts to affect the outcome of civil proceeding and should not be allowed under the guise of plea negotiations or any other facade."

Dan looks forward to eventually having an arbitrator return him back to work. Dan also extends his heartfelt thanks to PORAC LDF for the continued unwavering support and assistance.

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