



Former Fullerton Police Corporal Jay Cicinelli Found Not Guilty of Involuntary Manslaughter Charges in Death of Kelly Thomas

RLS is very pleased to announce that attorney Michael D. Schwartz has secured a full acquittal of former Fullerton Police Corporal Jay Cicinelli for the alleged “beating death” of Kelly Thomas. Yesterday, January 13, 2014, an Orange County jury unanimously found that Cicinelli was not guilty of either involuntary manslaughter or assault under color of authority for his involvement in the July 5, 2011, incident. The charges stem from his efforts to subdue and detain Kelly Thomas, a combative suspect who fought officers for approximately four minutes until they were eventually able to overcome his resistance.

Cicinelli was criminally charged alongside former Fullerton Police Officer Manuel Ramos and Joseph Wolfe. Ramos also was found not guilty of the charges levied against him. Remarkably, the charges against Wolfe were dropped by the District Attorney immediately after Cicinelli’s verdict, in a move likely calculated by the District Attorney to cut losses early on.

On July 5, 2011, Cicinelli responded to two “Code 3” requests for emergency assistance from fellow defendant Ramos and fellow officer Joseph Wolfe. Ramos and Wolfe had tried to detain Kelly Thomas for suspicion of attempted burglary, but could not themselves subdue Thomas’ combative resistance. Cicinelli was the first officer to arrive and assist in response to Ramos’ and Wolfe’s multiple emergency requests. In the ensuing struggle, Thomas twice attempted to wrestle Cicinelli’s TASER out of his hand and use it against the officers. Pursuant to his training, Cicinelli prevented this dangerous situation from occurring only after striking Thomas in the face with two jabs.

Cicinelli, Ramos, Wolfe, and other responding officers were able to eventually detain Thomas after a struggle lasting approximately four minutes. All officers described the encounter as an intense, exhausting, and dangerous struggle.

Thomas died five days after being taken into custody. An initial review by an internal homicide committee within the Orange County District Attorney’s Office determined Cicinelli engaged in no criminal conduct. District Attorney Tony Rackackaus, however, perhaps feeling political and public pressure after wide-spread media coverage, overruled this internal committee and decided to charge Cicinelli with involuntary manslaughter and assault under color of authority, based largely upon Cicinelli’s strikes to Thomas’ face to retain his weapon.

Underscoring the political nature of the allegations, the District Attorney made the unprecedented decision to himself argue the case in superior court.

The jury unanimously found Cicinelli did nothing wrong. They ultimately understood that Thomas was actively fighting the officers, that police officers may lawfully use force to effect an arrest and overcome resistance, that weapon retention is an extremely important use of force principle, and that officers are often forced to make split-second decisions under intense circumstances, such as occurred here. Sent into deliberations with Michael Schwartz's poignant and emotional closing argument fresh on their minds, the jurors found that Cicinelli's use of force was reasonable and lawful.

After over two years of unrelenting media scrutiny and public and political pressure, aided by the elected District Attorney himself, Jay Cicinelli's actions are vindicated.

While the death of Kelly Thomas is indeed a tragedy, it is not a tragedy resulting from criminal conduct. To the contrary, Cicinelli's actions were those of a well-trained police officer with rare presence of mind and decision-making ability. The jury's verdict vindicates not only Cicinelli's actions, but those of similarly-situated police officers making split-second decisions under intense, and dangerous circumstances.

After the verdict, Michael D. Schwartz noted that "police officers too often are forced to operate 'in the grey' with no desirable outcome. This verdict should allow some comfort in the fact that juries of lay persons are capable of understanding the unique pressures facing cops on the street every day."

Schwartz also noted, in response to the District Attorney's plea to the jury during closing argument to "send a message" by convicting the defendant officers, that "the idea of convicting another of criminal liability to 'send a message' is abhorrent to our system of justice and repugnant to our sense of due process. It's un-American. The government can only deprive another of their liberty if it proves its allegations beyond a reasonable doubt. To ask a jury to convict to 'send a message', whatever that 'message' may be, asks it to disregard our constitutional protections and common understanding of limits to the state's power. Thank goodness our jurors were sophisticated enough to reject such a plea."

Schwartz also praised "the entire defense team for all its dedicated work, RLS for its support without which we may not have seen such a positive outcome and, of course, PORAC LDF who allowed myself and the entire defense team the ability and resources we needed to defend our client against these serious charges."