
Expert Witness Testimony Aids in Acquittal of Homeland Security Officer Charged With Police Brutality Against Chinese Citizen

Protests and Apologies:

The alleged beating of Chinese citizen Ms. Zhao Yan, an incident that now threatens US-China relations, took place at the Rainbow Bridge Canada-US border crossing on July 21, 2004. Before the sun had set on July 23, the Chinese government had vehemently protested, the US government had apologized profusely and Robert Rhodes III, a 17-year veteran law enforcement officer was under arrest and fighting for his life. Tom Ridge, Secretary of Homeland Security. and Colin Powell, Secretary of State, both offered official US government apologies and the world media screamed for Rhodes to be punished, painting him as a craven, sadistic criminal.

According to Trial Consultant Michael Levine and attorney Steven Cohen, the instant knee-jerk reactions of the politicians and journalists all had one thing in common—complete ignorance and/or disregard of the facts.

Facts, Evidence & Expert Testimony

Michael Levine, who as defense expert spent more than 300 hours reviewing every aspect of the incident and its aftermath determined the following facts most of which are revealed here publicly for the first time:

1. The incident began at 11:35 PM when Ms. Zhao Yan and two companions fled Border Officer Robert Rhodes III as he approached, intending to question them relative to a smuggling arrest that had just been made.
2. Rhodes quickly caught Ms. Zhao and began to struggle with her. CCTV surveillance cameras taped her two companions sprinting away and separating in a manner suggestive of training as opposed to frightened women fleeing a "frightening, brutal and savage looking man," as Zhao Yan would later claim.
3. A short time earlier Zhao Yan and her two companions had been caught on another CCTV camera, taking a photograph in a "No-photo zone"—an unguarded alleyway leading to a lone, chain link door separating Canada and the US; a vulnerable area the details of which would be of great interest to spies, terrorists and drug smugglers; hardly a picturesque spot for tourist photos. Investigators would never attempt to seize or recover the film and/or camera containing this photo.
4. Ms Zhao resisted arrest by scratching and kicking. Rhodes, sprayed her with a non-lethal chemical spray known as "pepper spray." Ms. Zhao continued to fight. Rhodes, believing his actions were being recorded on a CCTV camera, now grappled with her trying to keep her at arms length to protect his gun. It would later be revealed that the camera was the only camera not functioning for "technical reasons."
5. Two other Border Patrol officers come to Rhodes' aid and physically wrestled Zhao Yan to the ground, indicating in their reports that even laying face down on the ground, she continued to resist by trying to pull her left hand under her and out of sight of the arresting officers—a maneuver highly indicative of a concealed weapon, which nowadays might be as small and innocuous as an aerosol spray containing anthrax.
6. Rhodes at this point held Ms Zhao by the hair trying to keep her head down, until the other officers had both her hands cuffed behind her back. The other two officers claimed at trial that Rhodes slammed her face into the ground injuring her forehead.
7. At trial Michael Levine would cite his experience as a DEA instructor and former martial arts practitioner and testify that the injuries claimed by Ms. Zhao were impossible without her nose being smashed. (She had no broken bones, only bruises).
8. Within a half hour of her arrest (at approximately midnight) Ms Zhao was released from custody by Homeland Security officials, taking with her all her belongings, cell phone, passport and camera included. None of these items were closely scrutinized and or examined by Homeland Security Investigators.
9. The photos introduced as evidence at trial showing Zhao Yan's battered face would be taken at approximately 2:30 a.m. — hours after her release from custody. Two of the officers would testify that she looked substantially more battered in the photos than she did moments after the arrest.

10. Michael Levine would testify that in his experience encompassing in excess of 5000 arrests, faking and self-inflicting injuries were common ploys used by unguarded and/or unobserved arrested parties to deflect attention away from them and onto the arresting officers and/or for the purposes of fraudulent law suits.

11. Ms Zhao who claimed to be in the US on business of buying lumber for a Chinese company, was never investigated in any manner. In essence her uncorroborated statements concerning her business as a "lumber buyer" in the US, her other world travels, her taking photos in a No-photo zone, the reasons for her fleeing the uniformed officers, her resistance to arrest and even her true identity was simply accepted as "fact" by Homeland Security investigators and the United States Attorneys Office. Under cross-examination by Buffalo, NY attorney Steven Cohen, Zhao Yan would later be exposed as having little or no knowledge of the lumber business.

12. When Ms. Zhao's photos appeared in Chinese mainland newspapers, three Chinese citizens risked their lives by coming to the American consul in Beijing with information implicating her in international crimes including homicide and the smuggling of human beings into the US. These claims would never be investigated by Homeland Security, nor would the informants be afforded any protection. Their whereabouts are now unknown.

13. Michael Levine would testify at trial that, after spending 300 hours, carefully reviewing every aspect of this incident it was his opinion that every action taken by Officer Rhodes was reasonable and well within the Use of Force parameters of US law enforcement.

14. Levine would further testify, relying on his life-long training and experience as a martial artist, to demonstrate for the jury that the "knee strikes" that Rhodes was accused of delivering with "deadly force" while he [Rhodes] was kneeling, were a physical impossibility.

The Verdict:

After a month-long trial, it would take the jury just four hours to acquit Robert Rhodes of all charges. But the lesson was not lost on the thousands of Homeland Security agents who to a man are keenly aware that the 17-year veteran was forced to sell his home to meet the \$138,000 cost of his defense, and that the coming fight to win his job back would not be cheap nor easy. While America may never know who Zhao Yan really is and just what her business and purpose was on an American international border crossing that night, a fact that remains certain is that no Homeland Security officer will ever run the risk of doing what Robert Rhodes tried to do: his job.

Michael Levine, one of America's most decorated international undercover agents, states that, in this time in American history when the threat of nuclear and biological terror has been judged a matter of when not if by our experts, Americas enemies are rejoicing the fact that there even was a trial. Terrorists, drug traffickers and spies are now acutely aware of yet another weakness in American resolve and that political and economic interests still take precedence over national security at our borders, according to Levine.

Finally, Ms Zhao Yan has now obtained a New York City attorney and plans to sue the US government for \$10 million, according to Yan's testimony.