

## **Recent Notable Cases and Outcomes**

(For a detailed listing and explication of notable cases during the past 20 years, visit [www.policetrialexpert.com](http://www.policetrialexpert.com))

Dekalb County, Georgia. Civil Grand Jury (Police Involved Shooting) – Testified for prosecution:

October 22, 2015, I aided DA's investigators in follow-up investigation, then testified before the DeKalb County Grand Jury as an expert for the District Attorney's Office in its recommendation that this matter be sent to a criminal grand jury. Case: in the police-involved shooting of Anthony Hill, by Officer Robert Olsen. Retained by the Dekalb County District Attorneys Office. GJ recommended that officer Olsen case be forwarded to criminal grand jury for a criminal indictment.

**Outcome: On October 14, 2019, Olsen would be convicted in criminal court, Dekalb County Georgia, of aggravated assault, violating the oath of his office and making a false statement. Sentencing to be determined by November 1, 2019.**

State of Alabama v Trenton Isaac Driver:

Charges relate to Mr. Driver having been arrested and charged based on his Internet communications with an undercover officer posing as a young girl. I filed a report and affidavit on behalf of defendant criticizing police undercover tactics as having been grossly substandard and overwhelmingly evincive of entrapment (I used the phrase "hunting deer in a duck pond"). Also noted in my report were indication of false reporting by omission and violations of National and Professional Standards of evidence handling.

**Outcome: On June 26<sup>th</sup> 2019, the court dismissed all charges against Mr. Driver.**

Estate of Paterson Brown v David L. Cobb:

Retained by the Richmond Virginia Police Department and City of Richmond Virginia on May 17<sup>th</sup> 2019. Off-duty Richmond police officer, David L. Cobb, observed the deceased, Paterson Brown, apparently attempting to steal a private vehicle under the care of the off-duty officer. In attempting to remove the subject from the vehicle, the officer observed what he believed was Brown reaching for a gun. The officer then shot and killed Brown. The officer, after two jury trials, was eventually convicted of manslaughter and sentenced to prison. The estate of the deceased Mr. Brown then initiated a lawsuit against the City of Richmond Virginia and the Richmond Police Department for failure to train properly. I was retained by The City to review the entire case file including but not limited to the opposing expert's reports, and issue an opinion. My detailed review of all materials resulted in the following opinions:

- a. That the amount of training to which officer Cobb had been exposed was well beyond that of most United States municipality and state police departments.
- b. That the opposing expert had failed to show any definitive, causative link between the event itself and any aspect of the officers training.
- c. That the opposing expert did not have sufficient training and experience to qualify him as an expert as relates to the specifics of this case.

**Outcome: After reviewing my report, the court dismissed the lawsuit against David L. COBB in June 2019.**

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### Wrongful death beneficiaries of Ruth Helen Harrion v The City of Jackson, MS:

I testified at the Hinds County, Mississippi, District Court, Judge Adrienne Wooten presiding, May 13<sup>th</sup>-16<sup>th</sup> 2019. I testified to a police demonstration of Craven Disregard of the life of 67-year-old Mrs. Harrion, who had called 911 with a prowler complaint at 3 AM in a high crime area; that the police came to the residence; police cleared the call making no attempts to personally speak with the complainant to ensure that she was unharmed. While police were checking the outside of the house, the prowler had already entered and was in the process of raping and murdering the elderly woman. My testimony demonstrated unforgivably substandard procedures, cowardice and reckless disregard of her life by police.

**Outcome: Client's family awarded \$1 million after two days of trial testimony.**

### Benny Warr v Rochester New York Police Department:

Testimony for plaintiff at federal trial in Rochester, New York, January 23<sup>rd</sup>-24<sup>th</sup> 2019. Plaintiff, an elderly African American—an amputee largely confined to a wheelchair—was arrested and charged with disorderly conduct. During the course of the arrest, the plaintiff's wheelchair was slammed onto its side after which defendants beat plaintiff with elbow strikes to the head and knee kicks to the body.

**Outcome: After two days of testimony, the jury found that the defendant police officer had in fact resorted to the use of Excessive Force. Money award matter still pending.**

The Estate of Charles Burns v Concord California Police Department et al: Retained by the family of 22-year-old Mr. Burns, who was shot and killed by two officers firing a total of 16 or more rounds at the young man as he allegedly fled from police. While reaching for his cell phone, defendants claim that they mistook the phone for a gun. After Mr. Burns had been mortally wounded, defendants then caused him to be attacked by a trained attack dog. The dog was permitted by defendants to continue to viciously maul the dying young man in the middle of the street. Testified at seven-hour deposition on January 12<sup>th</sup> 2018.

**Outcome: Case settled for \$2.5 million within weeks of my deposition.**

### Estate of Darrell W. Kempf v Trans America Insurance Company:

Case involved a \$2 million dollar life insurance claim against my client, Trans America. Darrell Kempf vanished in 2007, after his car was reported in a one-car accident, capsized in a California body of water. My review of crime scene evidence revealed elements of probable cause indicative of the accident having been staged. Testimony based upon my extensive experience hunting fugitives, along with first-hand experience and training involved specifically with hunting individuals seeking to escape prosecution in South America. **Outcome: After my deposition on September 8<sup>th</sup> 2017, a favorable out-of-court settlement was reached for my client.**

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### Lee Abraham v Arnold Smith:

Abraham was suing Dr. Smith in a high profile Mississippi case resulting from the police-involved killing of Keira BYRD by Officers of the Mississippi Attorney Generals Office. The State claim this was a shootout evolving from BYRD having been contracted by SMITH to murder ABRAHAM. BYRD'S homicide was charged to Dr. SMITH, who is still facing criminal charges. ABRAHAM subsequently sued DR. SMITH for mental anguish etc., due to the alleged attempted homicide.

My review and expert report indicated that BYRD was in fact enticed by ABRAHAM to his office with the promise by ABRAHAM of purchasing a gun from BYRD as evidence against Dr. SMITH, and that I had been able to identify significant elements of PC indicative of the murder of BYRD having been both unjustified and premeditated, that I had also identified other elements of PC indicative of false reporting, perjury and evidence tampering. Further: in the report, I also identified a number of elements of probable cause indicative of the police investigation avoiding all investigative and interrogation leads that would have led to incriminating evidence against police. On 6/9/17, I testified at a 7.5 hour Daubert Hearing in the court of Honorable Barry Ford in Greenville Mississippi.

**Outcome: Judge Ford issued a ruling that I would be permitted to testify to the full content of my report. Case resulted in satisfactory civil settlement for my client in January 2019. Criminal Trial still pending in State Court.**

### Crown v Rajwinder Gandham (Canada):

Defendant arrested in possession of in excess of \$1 million in cocaine concealed in an intricately built Secret compartment of a jeep. The arrest came after a three month investigation an surveillance of a criminal organization. I was retained and furnished with a significant amount of discovery materials. The prosecutor announced that he was going to use an RCMP expert witness who would testify that the monetary value of the illegal drugs precluded the notion that he could be unaware that he was, in fact, transporting illegal narcotics. My review of materials indicated significant elements of probable cause indicative of the defendant having been used as one would use a canary in a mine shaft, i.e., a "blind mule." My review of the discovery materials also revealed indications that, by the time the vehicle loaded with drugs had been given to the defendant to "use" on a lengthy trip, the criminal organization had detected signs of surveillance. This makes it highly unlikely that a member of said organization would risk being caught driving that car; therefore, it was a classic situation in which a DTO would select a "blind mule."

In furtherance of this defense theory, I furnished defense attorneys with detailed menus of cross-examination questions for use against the investigating officers. Questions based upon the documented violations of professional standards and their own SOP's; directed inquiries that would also bring out the fact that both prosecutor and police had avoided any investigative inquiries that would have yielded exculpatory information. On my arrival in court in Canada, the

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prosecutor decided not to use his expert. Defense attorneys then made the tactical choice of not using my testimony; however, with me present in court as a consultant, they did employ most of my suggested lines of cross-examination.

**Outcome: Defendant found not guilty in January 2019.**

James P. Crocker v Deputy Sheriff Steven Eric Beatty et al:

Sheriff Deputy seized iPhone from Plaintiff, claiming that the seizure was “evidence” in that it contained photos of an auto accident that might contain “photographic evidence” pertinent to the fatal accident. When Plaintiff questioned officer and did not follow a deputy’s orders, plaintiff was arrested. I filed an expert report in favor of plaintiff indicating that the arrest was false and the seizure was illegal, and that Defendant Internal Affairs investigation and reporting was conducted in violation of the Search for Truth Standards, resulting in probable cause of false official reporting and cover up. Deposition conducted via CCTV on March 8<sup>th</sup> 2017.

**Outcome: Out-of-court settlement reached in October 2018, in favor of my client.**

Marcia Przybysz, v City of Toledo, Toledo Police Department et al: Deposition on April 16<sup>th</sup>, 2017 - Testimony in favor of police. Thomas Prsybysz, was arrested by Toledo PD undercover officers for narcotic violations. As a result he volunteered to be an undercover informant. After a successful buy-bust set up by Thomas, he was murdered. The suit alleges that the Toledo PD failed to act appropriately to protect the decedent from retribution. I filed a report in support of the Toledo Police indicating that as per my review, through the lens of my five decades of training and experience, and in consideration of the totality of evidence presented, the DEFENDANTS had adhered to all Professional and National Standards and had acted in a reasonable manner.

**Outcome: The Judge, citing my testimony and expert report, subsequently dismissed the civil complaint against the defendant officers as well as the Monell charges against Toledo PD in August 2018.**

US v Moser/Martinez, Guam Federal Court:

This matter emanating from the arrest of the defendants in California for possession of in excess of \$1 million value of amphetamine, which they were allegedly in the process of exporting into Guam. The arrest occurred in 2012. I was retained in 2016, only two months prior to trial replacing another expert who have been retained almost 3 years earlier. During my review of all discovery materials, I was able to identify significant elements of probable cause indicative of: disregard of virtually all professional and national standards as they relate to the recruitment, management and corroboration of undercover criminal informants, as well as significant elements of probable cause indicative of the informant being aided and abetted by his police handlers, in an effort to entrap the defendants. Defense attorneys agreed with my recommendation to pursue an entrapment defense at trial. I provided the defense team with a detailed study of the evidence pointing out with specificity those areas to be attacked doing the

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cross examination of the law enforcement officers involved. Further, I supplied lengthy and detailed menus of cross-examination questions to employ at trial. Finally, in my report, I identified significant elements of probable cause indicative of criminality and corruption on the part of the law enforcement officers running the investigation.

**Outcome: The results, thus far, were two trials and two hung juries in Guam as of January 2019. The couple is now scheduled to be retried in Los Angeles, California.**

Sherry Johnson et al, v City of Philadelphia et al:

Mr. Kyree Johnson, a pistol license holder, was the victim of two unknown perpetrators who entered his car at gunpoint for the purpose of robbing him. Mr. Johnson drew his own gun and the perpetrators exited his vehicle running. Mr. Johnson got out of his vehicle firing his own weapon at fleeing robbers. Philadelphia police officer Atman drove up behind Mr. Johnson as this was happening. The officer opened fire hitting Mr. Johnson three or four times in the back. Johnson went down on his stomach arms stretched out, the gun beneath his body. The officer approached and continued firing striking Johnson 3 to 4 more times in the back. My opinion was that the first 3 to 4 shots in the back were justified. The additional 3 to 4 shots in the back, while Johnson was in the supine position, were unjustified and, in essence, an execution style shooting.

In July 2018, I submitted a 70 page expert witness report, citing elements of probable cause, and elements of proof indicative of: unjustified use of deadly force; premeditated homicide; false official reporting, cover-up, failure of the Philadelphia police department to train, supervise, and/or provide oversight to defendant officer; avoidance of “bad evidence” by defendant Philadelphia police department management.

**Outcome: The case was settled with an undisclosed amount of payment satisfactory to my client.**

Alvin Kennedy and Eliezer Feliciano v Municipality of Anchorage, Alaska: Retained by municipality of Anchorage as expert in defense of multiple charges including the unlawful disbandment of an undercover narcotic enforcement unit; that the two undercover officers were unlawfully searched due to racial discrimination and that the department itself was racist. I filed an expert witness report indicating that the plaintiff officers had in fact conducted themselves in a manner significantly contrary to National Standards of Undercover Tactics and Informant Handling Practices, to the degree that justified the Anchorage Department shutting down and disbanding the unit. I testified at trial in 2014 in the Federal Court of Anchorage, in support of defendant Anchorage Police Department.

**Outcome: Jury returned a verdict denying all plaintiff charges except the charge of racism in which there was a hung jury. In 2017, a retrial was scheduled solely on the racism charges, during which I was not called to testify.**