

# Federal Jury in Newark Finds Union City Police Officers Negligent

Newark New Jersey February 25, 2003

## Jury Finds Officers' Actions Caused Needless Death

A jury in Federal Court in Newark, NJ, today found four Union City police officers negligent in the death of Estaban Rosario and awarded his family \$5.5 million dollars in compensatory damages. Mr. Rosario, who had severe asthma, died on the evening of October 27, 1999. He had protested when the police, in the process of arresting his stepson, Osvaldo, entered his home, and he was arrested for disorderly conduct. The jury found that the defendants had denied Rosario emergency medical care that would have saved his life. Instead, the defendant police officers stood by ignoring his obvious distress, and laughing and taunting him and ultimately watching him die.

On the night he died, Mr. Rosario was sitting quietly in his living room, in his favorite chair. He lived in a small basement apartment on 7th Street in Union City. He had just finished taking a shower, and was watching his favorite sit com when two plainclothes police officers came into his home following in back of his step son, Osvaldo. The officers were engaged in "Operation Trick or Treat", designed to make low level drug arrests based on earlier undercover work. Mr. Rosario was in his underwear, sitting quietly, when two men, he didn't know who they were, begin fighting with his step son. Mr. Rosario intervened, 'What are you doing? What are you doing? Why are you in my home?' 'Shut up, we're the law', one of the officers said, 'We have an arrest warrant for Osvaldo'. The officers pushed Mr. Rosario against the wall, and told him they'd be back for him. They then led Osvaldo, handcuffed, outside and threw him into the unmarked police car.

The situation could have ended right there. The police had a lawful warrant for Osvaldo's, arrest. Two weeks before, he had told an undercover officer where the officer could buy cocaine in the neighborhood, and that is illegal. Ken Kacaris, one of the most knowledgeable experts on police procedure in the country, told the jury that what happened next never should never have happened. The police went back into the Rosario home and grabbed Mr. Rosario, handcuffed him, and as his family watched, horrified, they dragged him out into the cold October night in his underwear. Mr. Rosario was 64 years old and had never been in trouble with the law his entire life.

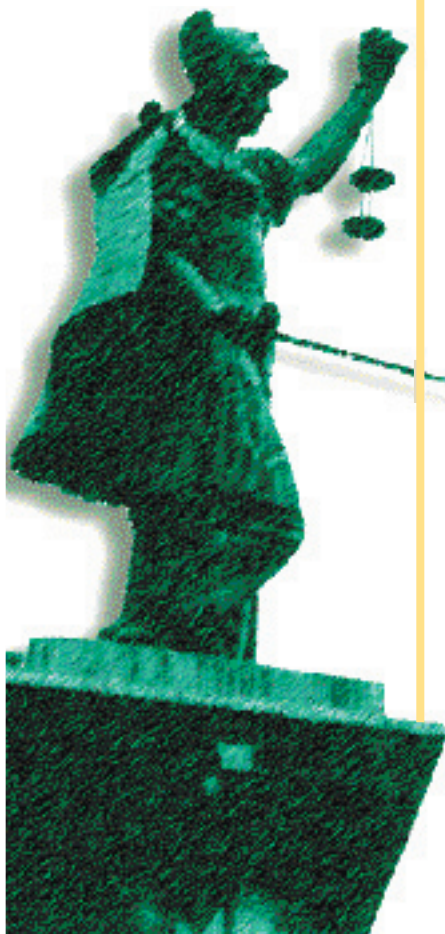
As they were leaving the apartment, Mr. Rosario's daughter, Carman, yelled, 'He's a sick man. He needs his inhaler'. One of the officers grabbed the inhaler from Carmen. as Mr. Rosario was pushed outside, but later, as it became clear that Mr. Rosario was having trouble breathing, just threw it in his lap as he sat handcuffed in the unmarked police car.

By this time several people in the neighborhood had heard something going on the street, and they came out of their homes to see what was happening. These eye witnesses testified that almost as soon as Mr. Rosario was placed inside the police car he began experiencing trouble breathing. Several people began yelling, 'He needs help! Please help him'. At some point, one of the officers tossed the inhaler into the car onto Mr. Rosario's lap. Osvaldo, seeing his stepfather turning blue, began banging his head on the window of the car, trying desperately to get help. Mr. Rosario was a large man, and he was handcuffed with one set of cuffs, behind his back, again, against standard police procedures.

Within several minutes, Mr. Rosario's severe breathing problems were apparent to the neighbors who were watching. They kept yelling to the police to help him and finally, one of the officers responded and removed Mr. Rosario from the car. He had lost control of his bladder, and he fell to the ground almost immediately. He lay face down, still handcuffed, for at least five minutes before an ambulance arrived. The family and the neighbors could see what was happening, but the police prevented them from helping Mr. Rosario. An ambulance was called, but by the time the medics arrived, Mr. Rosario was dead.

This was not the first time several of these officers had faced serious accusations about their conduct as police officers. Several years before, one had been suspended for putting a gun to a neighbor's head; another had been suspended for shooting paintballs at random citizens from a moving vehicle while 'under the influence'.

At trial, the officers' changed their rendition of "what happened" several times between their written reports, their depositions and their trial testimony. They contradicted one another and the neighbors who watched the death scene unfold. The only substantial defense in the case came by way of the medical examiner's report, which concluded that Mr. Rosario had died of congestive heart failure, and therefore, according to the defense, the officers' conduct was not a proximate cause of his death. However, plaintiff's medical expert, Dr. Joseph Baden, former New York City Medical Examiner, testified that Mr. Rosario died because the police did not administer his inhaler. Further Dr. Baden also testified that the police officers' conduct had further contributed to Mr. Rosario's death because they failed to administer oxygen when he collapsed. The officers had been trained to administer emergency medical assistance and if they had administered oxygen to him they would have saved his life. Instead, they stood around and waited until he was dead. Then, as the ambulance arrived, as one of the neighbors heard one of the officers say, 'We could get into trouble for this'. The jury of five women and three men agreed and found for the plaintiff after a day and a half of deliberations.



- Strategic Research
- Witness Preparation
- Demonstrative Exhibits



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