

# In Self Defense

Police Officer Michael Long believed he was dismissed favorably from a lawsuit over a shooting, and he responded with a malicious prosecution case.

BY BOBBI MURRAY

**T**he highly charged tumult that surrounds a controversial police shooting is often fraught with racial undercurrents, but Sergeant Michael Long didn't leave it to subtlety. In response to a wrongful death action filed by the family of Sonji Taylor — a 24-year-old woman shot and killed by Los Angeles police officers in 1993 — Long, a defendant in the case, filed a malicious prosecution action against Taylor's mother, son and attorneys at the Law Office of Johnnie L. Cochran Jr., who represented Taylor's family in the wrongful death action. Long charged that racial prejudice motivated the wrongful death action, because he was a white police officer who shot an African-American suspect.

The defendants, represented by Sherman Oaks' Nemecek & Cole, moved for summary judgment in Long's suit on the grounds that the underlying action had not reached a favorable termination.

On Oct. 1, Los Angeles Superior Court Judge Carolyn B. Kuhl granted summary judgment, and the malicious prosecution case was dismissed. The case is now on appeal.

The shooting occurred at St. Vincent's Medical Center in downtown Los Angeles. Taylor was on the hospital's roof, holding Jeremy, her 3-year-old son. According to witnesses, Taylor appeared incoherent, continuously repeating, "The blood of Jesus."

Officers at the scene said they feared for Jeremy's safety and formulated a plan to extricate him. Long was to dose Taylor with pepper spray, while another officer, John Pasquariello, rescued the child. The officers requested a taser gun, but none was available.

After Long pepper-sprayed Taylor, Pasquariello removed the child.

Then, according to the officers, Taylor lunged at Long with a knife. He backed up but stumbled. He pulled his revolver, firing twice at Taylor. Simultaneously, Officer Craig Laetahl fired. Taylor died at the scene of multiple gunshot wounds.

Why Taylor was on the roof of St. Vincent's Medical Center with a knife appears inexplicable. The autopsy found no drugs in her system, nor did she have a history of violence or psychological disturbance. The LAPD's officer-involved shooting report cleared the officers of wrongdoing and found the shooting was within department policy.

Taylor's family retained the Law Office of Johnnie L. Cochran Jr. to file a wrongful death action against the city of Los Angeles. Besides naming the Los Angeles Police



Litigation, says Jonathan Berres Cole, is "not a game. The first thing I do is attempt to evaluate my client's exposure. I evaluate liability and damage and determine whether I have exposure and ascertain a litigation strategy based on that analysis and so advise my client."

Department, the complaint named each officer involved in the shooting. With the exception of Long — who retained Paul Rolf Jensen of Hacienda Heights' Jensen & McIntosh — each officer was defended by the city attorney's office.

Long retained separate counsel because he had a conflict of interest with the city attorney's office. In July 1995, he had filed a legal malpractice claim against the city over a series of articles about the shooting that appeared in newspapers owned by the San Gabriel Valley Publishing Group. Long believed they portrayed him as a murderer, Jensen says.

Under direction of the Los Angeles city attorney's office, former Police Chief Willie L. Williams sent the newspaper group a demand for retraction, but the letter did not specify which article to retract. Los Angeles Superior Court Judge Lois Smaltz found that the retraction demand was inadequate and dismissed the defamation action Long filed against the newspaper group.

In July 1997, the wrongful death case settled for \$2.45 million. Prior to that settlement, Long settled his malpractice claim with the city. The agreement contained a provision that the city would indemnify Long for any liability in the wrongful death action.

In August 1998, Long filed a malicious prosecution suit against Cochran, as well as against Carl E. Douglas, the managing attorney of Cochran's firm at the time, and two of Cochran's associates, Eric Gregory Ferrer and Shawn Snider Chapman.

The Los Angeles Superior Court complaint also named as defendants Taylor's now 7-year-old son, Jeremy, and Taylor's mother, Geri Dixon. Long settled with them during the litigation for a waiver of costs.

Jensen also represented Long in the malicious prosecution

action, arguing that the underlying wrongful death suit had reached a favorable termination as to Long, because, according to Jensen, Long was not part of any settlement and the judge dismissed the case against him.

The defendants, represented by Jonathan Berres Cole and Jon D. Robertson of Sherman Oaks' Nemecek & Cole, filed a motion for summary judgment, on the grounds of no favorable termination of the underlying action.

According to Cole, Long was dismissed from the Taylor family lawsuit because, in finalizing the wrongful death settlement, the city required that all the litigants sign a document that released both the city and its employees from further litigation.

Jensen, who has appealed the ruling, says the summa-

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## SIDEBAR

**Type:** Malicious prosecution

**Verdict:** Defense

**Case Cite:** *Long v. Cochran*, KC 028755 (Los Angeles Superior Court Oct. 1, 1999)

**Judge / Department:** Carolyn B. Kuhl / 22

**Attorneys:** Plaintiff — Paul Rolf Jensen, Hacienda Heights' Jensen & McIntosh

Defendant — Jonathan B. Cole, Jon. D. Robertson, Sherman Oaks' Nemecek & Cole

**Experts:** None

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ry judgment depended on a technicality. He contends that triable issues of fact remain about whether Long's dismissal was a necessary condition to complete the settlement with the city. He's confident that, had the case gone to trial, Long would have prevailed.

Jensen argues that Long was not dismissed as part of the settlement because he had retained separate counsel and the city had never represented him.

He also says that Douglas had agreed at a July 10, 1998, hearing to continue the wrongful death action until August. According to Jensen, Douglas' willingness to continue the case showed that he agreed that Long's portion of the case had not settled.

"He [Douglas] didn't state to the court that a dismissal against Sergeant Long was being required," Jensen says.

Also, Jensen says that Douglas requested the continuance "after I warned him that, if he filed for dismissal against my client, we'd sue him for malicious prosecution."

According to Cole, Douglas agreed to continue the case because all the details of the settlement had not yet been finalized.

The questions surrounding Douglas' actions led to an unconventional tactic on Cole's part — taking Jensen's deposition to determine the possibility of a favorable termination of Long's case.

Jensen "was principally involved in contending that he had had conversations with Carl Douglas which supported his position that there was never a settlement," Cole says.

If the city did not exclude Long from the settlement, Cole continued, it

would have left itself open to further litigation.

"Why would the city hand Mr. Cochran \$2.45 million to settle the Sonji Taylor case, only to have Mr. Cochran go to trial against Long and have to write another check?" Cole asks. "There's no way the city is going to pay \$2.45 million only to end up with exposure in [another] trial."

As precedent, both sides cited a case involving an Alameda County police officer who disavowed a settlement by the city attorney, even after being represented by the city attorney's office throughout the case.

The officer lost the case in Alameda County Superior Court, and the appellate court upheld the lower court decision. *Villa v. Cole*, 4 Cal.App.4th 1327 (1992).

Jensen says that *Villa* proved his case regarding favorable dismissal "by negative implication .... It's so narrow. It holds that if a police officer has been represented, he can't sue .... [H]e hasn't been represented, then he can."

However the defense interpreted the case differently. In *Villa*, the police officer was not favorably dismissed in the case, Robinson says, because his dismissal was a necessary condition of achieving a settlement with the city, as was Long's.

"There was very little fanfare involved in winning the case .... I didn't create any great result that I don't think any competent lawyer couldn't have created," Cole says.

Jensen is adamant that his client is a hero who saved Jeremy Taylor's life. Taylor threatened Long, he says, so if the wrongful death action had gone to trial, his client would have won.

"Mike Long had a defense available to him — it was an absolute defense to the lawsuit against him that Mr. Cochran brought," Jensen says. "There was no basis ever for Mr. Cochran's lawsuit against my client ... and that's why [Long] wanted to go to trial. ... [H]e wanted his name cleared."