

Judge blasts officers in Torres shooting death

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Renetta and Stephen Torres, left, and attorney Randi McGinn, right, discuss the \$6 million that state District Court Judge Shannon Bacon awarded them over the death of their son, Christopher Torres. Christopher Torres was shot at the family's home by an APD officer. (Marla Brose/Albuquerque Journal)

Albuquerque Police Department detectives created the dangerous situation that led to the death in April 2011 of a mentally ill, 27-year-old man in his own backyard when they tried to confront him with a warrant over a road rage incident, a judge ruled Tuesday.

State District Judge Shannon Bacon, who rejected claims by the officers that they were acting in self-defense when they shot Christopher Torres, awarded more than \$6 million to Stephen Torres, Christopher's father and personal representative of the estate – exceeding the \$4 million requested by attorneys for the Torres family.

However, the payout will be limited to \$400,000, the maximum allowed under the state Tort Claims Act.

Although the Bernalillo County District Attorney's Office reviewed the case and declined to file criminal charges against the officers, Bacon concluded in the civil case that Detectives Richard Hilger and Christopher Brown committed batteries on Christopher Torres – Hilger by beating him and Brown by shooting the unarmed Torres three times in the back at point-blank range.

Bacon also found the testimony by the officers, who were in jeans and sweatshirts that day, was “not credible.”

A separate civil rights lawsuit based on Christopher's death is pending in U.S. District Court. Family attorneys Randi

McGinn and Kathy Love said Tuesday they will ask the judge in that case to rule that the compensatory damages already have been decided by the state court and simply adopt them should the plaintiffs prevail in the trial, set to begin on Sept. 15.

In the federal trial, the Torres family is alleging violations of the Americans with Disabilities Act, that APD has a culture of using excessive force and asking for punitive damages not available under state law from a municipality.

A city spokeswoman said Mayor Richard Berry is prohibited from commenting due to the ongoing federal lawsuit.

Renetta Torres, Christopher's mother, said in a news conference Tuesday that her family's side of the story has been validated, especially since Bacon ruled there was no credible evidence that her son had grabbed a gun away from one of the officers.

"For us as a family, the true story of what happened is known," she said. "Justice, thank God, prevailed."

Bacon's damage award included funeral expenses, pain and suffering, future wages, lost household services and \$4.56 million for the lost enjoyment of life.

Christopher Torres, who was being treated for schizophrenia, lived at home with his parents and worked part-time at a metal fabrication business. His illness sometimes led him to misperceive events, so the family had approached APD's Crisis Intervention Team, asking that they be contacted if there were a need to speak to Christopher.

Hilger and Brown were not aware of that at the time they went to the Torres home – either to serve an arrest warrant or get a statement from him on an earlier road rage incident – when Christopher was home alone. When no one answered the doorbell, they jumped the fence into the backyard.

In assessing the evidence from a weeklong bench trial in March, Bacon said the inconsistencies in the testimony by Detectives Hilger, Brown, the sole eyewitness, and the physical evidence were among the factors that led her to conclude that the officers' testimony was "not credible."

The judge's 20-page summary of findings also said the officers had not made adequate inquiry into the facts underlying the warrant when they went to the home.

The city did not submit its request for a jury trial in time.

Some claims rejected

While critical of the officers, Bacon refused to find APD had engaged in negligent hiring and training, as the Torres family claimed.

The family's attorneys argued that during then-Mayor Martin Chávez's push to increase the number of street officers by 100, standards were lowered. It was during that time when Brown, who fired the fatal shots, was hired.

Brown, who had previously been rejected by APD, was a lateral hire from Roswell who was not required to undergo the psychological screening required for most APD recruits, did not have a college degree and did not have to submit to an extensive background check.

Bacon said state law and the state administrative code set the minimum requirements for law enforcement, so a certified officer anywhere in the state may be presumed to have received needed training.

The officers have said Torres managed to gain control of Hilger's gun. But Bacon noted that despite the testimony over control of the weapon, the physical evidence showed Hilger's gun had no scratches or damage, that Torres' hands showed only defensive wounds and that his face was bruised.

"There is no credible evidence that Christopher Torres grabbed detective Hilger's gun out of the hidden, inside-the-
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pants holster, held it in a firing position, and threatened either of the detectives,” Bacon wrote.

In the news conference Tuesday, the Torres family and their attorneys said they felt most vindicated by the judge's ruling on this point.

“Christopher's version of the story, we believe, has been vindicated,” said Stephen Torres, Christopher's father.

Eyewitness

A month before the March trial began before Bacon, prosecutors cleared the officers while calling it “unfathomable” that APD had waited almost two years to question the sole eyewitness to the event, backyard neighbor Christie Apodaca.

Apodaca, who called 911 on the day of the incident because she believed her neighbor was being mugged by men in jeans and sweatshirts, testified on behalf of the family.

District Attorney Kari Brandenburg cited Apodaca's contradictory statements as a key reason the officers were not criminally charged.

But the Torres family at the news conference lauded Apodaca for her courageous decision to testify despite being afraid of retaliation.

“She was scared. It would have been easy for her to hide,” Stephen Torres said. “...I don't think APD wanted to know what she knew.”

Use of force by officers is authorized by law when the officer has probable cause to believe he or another person is threatened with serious harm.

Other lawsuits

The Torres case and a similar police shooting case filed by the family of Kenneth Ellis III in 2010 that resulted in a \$10 million judgment were procedurally different. The city ultimately settled the Ellis case for nearly \$8 million.

The Ellis case combined state and federal claims, meaning the city could have moved it to federal court, but did not. The Torres family filed separate state and federal lawsuits.

The Torres case is more similar to a 2011 ruling from Judge Theresa Baca in which the judge issued a scathing ruling against APD – saying that APD's training methods were “designed to result in the unreasonable use of deadly force” – before handing down a \$4.25 million judgment against the city.

But because of the Tort Claims Act, taxpayers paid just \$400,000 of that.

In the Torres case, the city had offered to place the \$400,000 allowed under the tort claims cap plus another \$100,000 in costs into the court registry to satisfy the family's claims, saying it was the statutory maximum they could recover. Bacon denied the motion, saying it eliminated their right to make a record for appeal and their right to a public trial.