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Wilmington man settles civil rights suit against detective for \$500K

By: David Donovan April 9, 2020

A Wilmington man who faced charges of first-degree rape and other sex crimes, all of which were eventually dismissed, has negotiated a \$500,000 settlement with the detective who issued the warrants for his arrest, the man's attorney reports.

Carlos Mahoney of Glenn, Mills, Fisher & Mahoney in Durham reports that his client, James Bader, separated from his then-wife in 2012, and Bader's wife sought primary custody of their five-year-old daughter and the wife's 14-year-old daughter, whom Bader had legally adopted. District Court Judge Jeffrey Noecker found that the ex-wife was alienating the adopted daughter from Bader and ordered temporary custody of the children to be given to Bader, but the adopted daughter refused to comply with the court order and repeatedly ran away from his home.

While the custody dispute was ongoing, Bader's ex-wife interpreted a stick figure drawing by her adult autistic son as depicting a sexual act between Bader and his adopted daughter, who told her mother that she'd been sexually abused by Bader as a child. The mother notified social services, which filed a juvenile petition for abuse/neglect. Bader denied the accusations, and investigators found no physical evidence, health records, or witnesses to corroborate the allegations. After a trial, Noecker dismissed the petition, finding that there was no clear and convincing evidence of sexual abuse, the adopted daughter's testimony was not credible, and Bader's testimony was credible, Mahoney said.

A few months later, Detective Peter Oehl, who investigated allegations on behalf of the Wilmington Police Department, had four warrants for arrest issued against Bader for first-degree rape, first-degree sexual offense, incest, and indecent liberties. Bader was arrested and detained under a \$1,000,000 bond for two days until the bond was reduced. In that time, local news outlets reported the charges against him and he was terminated from his job. The DA's office dismissed all of the charges without seeking an indictment, finding that there was insufficient evidence to warrant prosecution, but Bader's employer declined to rehire him and he had difficulty finding new full-time employment, Mahoney said.

In 2018, Bader filed a civil rights claim against Oehl alleging a claim for unreasonable seizure through the initiation of criminal proceedings without probable cause in violation of the Fourth Amendment. Depositions taken during discovery showed that Oehl didn't conduct any further investigation after the petition trial or have any new evidence when the warrants were issued. The magistrate who issued the warrants for arrest testified that she wouldn't have found probable cause to issue the warrants if Oehl had informed her about the results of the petition trial, Mahoney said.

An initial mediation in the case was unsuccessful, but towards the end of discovery, a second mediation was held and a settlement was reached on April 13, 2019.



Mahoney

"The settlement with the City of Wilmington's insurer provided some vindication for Mr. Bader," Mahoney said. "More importantly, it led to several favorable news reports for Mr. Bader which will hopefully counter the negative effects of the publicity over the original charges. Mr. Bader is eager to move forward with his life and to put this ordeal behind him. He also hopes that the settlement in his case will shed light on deficiencies in the criminal justice system and within the Wilmington Police Department."

Scott C. Hart of Sumrell Sugg in New Bern represented Oehl, who remains employed as a police detective. Hart said that both the city and the police department stood by and continue to stand by Oehl and believe that probable cause existed to support his decision to take the case before the magistrate.

"This was honestly a decision to settle based on an economic basis, not because there was any belief that Detective Oehl had violated any rights or acted inappropriately in any way," Hart said.

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SETTLEMENT REPORT – CIVIL RIGHTS

Amount: \$500,000

Injuries alleged: Arrest and prosecution without probable cause

Case name: *Bader v. Oehl*

Court: U.S. District Court for the Eastern District of North Carolina

Case No.: 7:18-cv-42-D

Date of settlement: April 13, 2019

Special damages: \$332,179 for lost earnings, \$25,000 for attorneys' fees, and \$8,000 for bond premium

Most helpful experts: Dave F. Cloutier of Sanford (law enforcement) and Gary Albrecht, Ph.D., of Winston-Salem (forensic economist)

Insurance carrier: Travelers Property Casualty Co. of America

Attorney for plaintiff: Carlos E. Mahoney of Glenn, Mills, Fisher & Mahoney in Durham

Attorney for defendant: Scott C. Hart of Sumrell Sugg in New Bern

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