

66 I'M FIGHTING TO MAKE THIS PUBLIC BECAUSE EVERYONE IN CLOVIS SHOULD KNOW THIS INFORMATION.

Charles Tony Piccuta, attorney for George Macias Jr.

Will judge unseal internal info about Clovis cops accused of beating motorcyclist?

Four officers accused of beating George Macias Jr. in 2012

Officers were told statements to internal affairs would be kept confidential

Lawyer wants federal judge to reconsider protective order

BY PABLO LOPEZ
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On a September night four years ago, 20-year-old George Macias Jr. was riding his motorcycle on Willow Avenue when a Clovis police officer pulled him over.

What happened next to Macias is the subject of a federal civil rights lawsuit in which Macias contends four Clovis police officers savagely beat him while he was handcuffed and used a stun gun on him.

Police then arrested Macias on charges of resisting arrest.

All lies, attorney Charles Tony Piccuta says in court papers filed in U.S. District Court in Fresno. Piccuta and Panos Lagos represent Macias.

In fact, a Fresno County Superior Court jury in March 2014 found Macias not guilty of resisting arrest. Macias pleaded guilty to the traffic infraction of driving a motorcycle without a license, court records say.

Picutta says the proof that officers Steve Cleaver, Cesar Gonzalez, Eric Taifane and Angel Velasquez fabricated their account is in his second-amended civil complaint against the city of Clovis. But the file includes redactions ordered by U.S. Magistrate Judge Barbara McAuliffe. The redacted information covers confidential internal affairs documents pertaining to the officers' account of the incident.

On June 17, Piccuta, who

has filed a motion to unseal the information, will ask McAuliffe to reconsider her decision. "I'm fighting to make this public because everyone in Clovis should know this information," Piccuta said in a telephone interview.

In a letter to The Bee, Jenell Van Bindsbergen, an assistant city attorney for the city of Clovis, declined to even say whether the four officers are still on the police force, saying that information is confidential. (At least one, Cleaver, has since left the police force.)

Fresno attorneys James Weakley and Brande Gustafson, who are defending the city against Macias' lawsuit, want to keep the Police Department's internal affairs documents secret, saying in court papers the redacted information is not only confidential, but "impertinent, scandalous and prejudicial."

At the June 17 hearing, McAuliffe also will hear the city's lawyers' motion to have Macias' civil complaint dismissed or at minimum keep the redacted information secret and have some of the 10 causes of action against the



CHARLES PICCUTA Special to The Bee

A federal civil rights lawsuit accuses four Clovis police officers of beating then-20-year-old George Macias Jr. and using a stun gun on him in September 2012.

A JURY FOUND GEORGE MACIAS JR. NOT GUILTY OF RESISTING ARREST IN THE SEPTEMBER 2012 INCIDENT

officers stricken.

Macias, who turns 24 on June 16, was a 2010 Fresno Bee football all-star at Clovis East High School his senior year. The 6-foot-3, 230-pound tight end was a three-year starter.

He is seeking unspecified damages for alleged violation of his civil rights, assault, battery, excessive force, malicious prosecution and intentional infliction of emotional

distress.

Court records give insight into the dispute:

Around 10:15 p.m. on Sept. 30, 2012, Macias was riding on Willow Avenue when he was pulled over near Gettysburg Avenue "because the light illuminating the motorcycle's license plate was not bright enough," the complaint says. Officer Cleaver soon discovered Macias was not licensed to operate a motorcycle.

Officer Gonzalez arrived as backup as Cleaver gave Macias a ticket and told him his motorcycle would be impounded. Meantime, Gonzalez took the keys out of the ignition. When Macias said he needed the ignition key to lock the motorcycle's front tires, Gonzalez gave it to him. Once that was done, Macias put the key in his pocket, signed the citation and left.

Soon after, Cleaver determined Macias had taken the ignition key and asked Gonzalez to go look for Macias. Gonzalez found Macias a half-mile away and asked Macias for the ignition key, but Macias refused. Gonzalez then informed Cleaver, who drove his patrol car to where Gonzalez was with

Macias. "Upon exiting his patrol unit, officer Cleaver confronted (Macias) with his Taser drawn and announced that he was under arrest," the civil complaint says.

Cleaver ordered Macias to get down on his knees. Because Macias did not get on his knees fast enough, Cleaver told him that he would shoot him, "or words to that effect," the complaint says. Macias then got on his knees, crossed his legs at his ankles, and put his hands behind his back so Gonzalez could handcuff him.

Meantime, "Cleaver continued to fix the laser of the Taser on (Macias) while intensely staring at him in a threatening manner," the complaint says. Cleaver also accused Macias of flexing his muscles and told him if he didn't stop flexing, he would shoot him, the complaint says.

The two officers then put Macias in the back seat of Cleaver's patrol car. But because police "haphazardly put Macias in the patrol car," the complaint says, his knees were crunched up to his chest, his feet were off the floorboard, and his shoulders were hurting.

During the ride to the Fresno County Jail, Macias was able to move his handcuffed hands from his back to his lap in order to relieve his pain, the complaint says.

Cleaver and Macias were separated by a heavy-duty hard plastic and metal screen called a prisoner cage. The screen allowed them to see each

other but not touch each other.

Once Cleaver learned Macias had repositioned his hands, he pulled over on Shaw Avenue near Highway 168. Macias tried to explain why he repositioned his hands, but Cleaver ignored him, the complaint says. Instead, Cleaver called for backup.

At this point, Macias grew apprehensive. "He believed something bad was going to happen to him," the complaint says. "He tried to calm himself down by intentionally slowing down his breathing as he went over a mental checklist of things to avoid: no talking, no sudden movement."

"He wanted to present a perfect picture of compliance and submission," the complaint says.

Within a few minutes, officers Gonzalez, Taifane and Velasquez showed up. The complaint says the officers cursed Macias and ordered him out of the patrol car. Once out, Macias "crunched himself over into a standing fetal position with the intention of minimizing his size and presenting body language emphasizing complete submission and compliance," the complaint says.

According to the complaint, Taifane got behind Macias and hit him "with a cross-face punch leading to a choke hold position." Meantime, Gonzalez yanked on the chain between the handcuffs which were on Macias' wrist and Velasquez punched Macias' face and head, the

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LAWSUIT

complaint says. Cleaver then shot Macias twice with the stun gun, allowing officers to slam Macias' face into the concrete sidewalk.

While on the ground, Macias says the officers took off his handcuffs and continued to pummel his face and yank his arms into unnatural and painful positions. The officers also placed Macias' legs "in a figure-four, leg-lock," the complaint says.

Screaming in pain, Macias says the officers cursed him and kept striking him. He then lost consciousness. "When he regained consciousness, emergency medical personnel had arrived and (Macias') hands were cuffed behind his back," the complaint says.

An ambulance took him to Community Regional Medical Center in downtown Fresno. After he received treatment for his injuries, he was booked into jail. His family then posted bail.

The next eight paragraphs in the complaint are redacted.

Piccata says in court papers that Cleaver asked the District Attorney's Office to prosecute Macias "in an effort to cover up and substantiate his wrongdoing." He said the other officers "were later required to try to validate and verify" Cleaver's account.

"The protective order that was entered in this action unjustly prohibits the dissemination of the truth," Piccata says in his motion to unseal the redacted information. "Specifically, this court has a duty to see that this information is not con-

“ IMPERTINENT, SCANDALOUS AND PREJUDICIAL.

How lawyers for the city of Clovis describe information contained in court files that they want to keep private. An attorney for the man suing the city in the case says the redacted information is from Clovis Police Department internal affairs documents.

cealed from the public so that other individuals who have been wrongfully arrested, convicted and incarcerated ... may be vindicated," he says.

Court papers say the city sought the protective order to shield the officers

and their families from retaliation from subjects that the officers have arrested. Because the officers were assured their statements would remain confidential, public disclosure of their statements could lead other officers to not come forward with important information in future internal affairs investigations, the documents say.

But Piccata says there is a legal presumption that papers filed in court are public. He also says an officer's account of an event "is precisely the kind of information that should be made known and not hidden."

"If an officer is hiding information that he is not willing to divulge because it could implicate him in misconduct giving rise to civil liability, this is all the more reason he should be required to disclose it or be dismissed from his position," he says.

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GARY KAZANJIAN Fresno Bee file

In 2010, George Macias was a Fresno Bee all-star football player at Clovis East High School. Macias (5) goes up against Clovis West players Gerald Nutt (13) and James Bitter for a pass during a game that season.

THE PLAINTIFF, GEORGE MACIAS JR., WAS A 2010 FRESNO BEE ALL-STAR FOOTBALL PLAYER AT CLOVIS EAST HIGH SCHOOL HIS SENIOR YEAR. THE 6-FOOT-3, 230-POUND TIGHT END WAS A THREE-YEAR STARTER.

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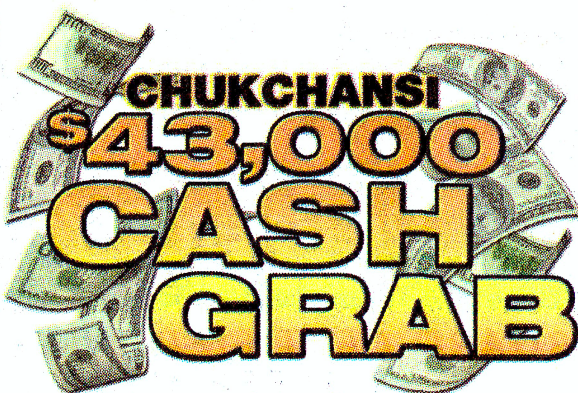
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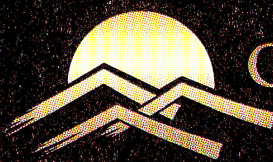


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