

CITY COURT: JUDGES BELIEVE POLICE CLAIMS AND IGNORE VIDEO PROOF



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According to police reports, Rene Granados tried to prevent police in Bullhead City from arresting his son.

According to police reports, Granados blocked officers' path at a local Safeway store and refused to move out of the way.

According to police reports, Granados raised his right arm in a threatening manner and attempted to push past police.

According to a video of the incident, none of that happened.

It didn't matter. A Bullhead City Municipal Court judge convicted him anyway.

Granados's case is one of several reviewed by the Goldwater Institute in which city courts convicted defendants even when there was clear evidence that contradicted the police version of events. Judges regularly discount, dismiss, or ignore evidence that goes against the written reports and courtroom testimony of police, according to defense lawyers and academic experts. To do otherwise, in many cases, would jeopardize the tight bonds judges forge with police and prosecutors, who are their fellow city employees. In cases like the one involving Granados, it would also open the city to costly lawsuits for things such as excessive force and false arrest.

"Too much deference is given to getting the conviction by the judge," said Steve Eckhardt, the attorney who represented Granados. "They are going to believe the cops 100 percent of the time, every time—prosecutors and I think a lot of times judges. In these city courts, I don't see how they wouldn't. They give more weight to the police officers. And if the police officer's statements don't correlate with the actual facts they know to be true, they will find ways to make it non-nefarious, a non-mistake of the officers so that they can gloss over it."

City court judges are particularly vulnerable to pressure to protect the city's interests, the Goldwater Institute found in its report [*City Court: Money, Pressure, and Politics Make It Tough to Beat the Rap*](#), published in July.

Unlike judges at every other level of the judiciary in Arizona, city court judges do not answer to the people through elections. Instead, they are appointed and retained, and can be fired, by city councils.

Judges who go against police, prosecutors, or other city officials can be fired at any time the council determines there is sufficient cause. Councils can refuse to reappoint judges when their terms expire for any reason, or for no reason.



[CLICK HERE FOR VIDEO OF RENE GRANADOS ARREST](#)

HEIGHTENED ALERT

Police credibility is an issue of [growing national concern](#), driven largely by a series of high-profile police shootings in which the official version of events differs from what was captured on video, often from bystander cellphones or security cameras. In response to those shootings, the U.S. Department of Justice [launched a program](#) in 2015 to help local police agencies equip their officers with body cameras.

Inconsistent testimony does not necessarily mean police are lying, said Jim Parks, [executive director of AZCOPS](#), a police union that represents officers from throughout the state.

They might just remember minor details differently.

Any encounter can turn dangerous, even deadly, so officers are already on a heightened state of alert, said Parks, a retired Tucson police officer who spent 10 years teaching defensive tactics for the agency. After an arrest that turns physical or violent, minor nuances and details are easy to misremember.

“When your adrenaline is flowing, you can forget things,” Parks said. “The furthest thing from our minds is worrying about a police report as we’re walking into an incident. If I was involved in something, I wasn’t worried about my report. I worried about what was in front of me and what we needed to do to deal with the issue at hand. We worried about the report after we were done with everything. Then we tried to remember what happened.”

But criminal cases often hinge on minor details. A Mesa police officer was [recently acquitted by a jury](#) of murder charges after fatally shooting an unarmed man who was crawling on his knees and begging for his life, an incident caught on the officer’s body camera. The officer fired when the man’s hand moved toward his waist, which the officer took as a sign he might be reaching for a gun, according to trial testimony.

IMPORTANT DETAILS

Granados’s case came down, at least in part, to one of those subtle details: whether he raised his hand to attack officers or because he was startled at being grabbed from behind.

Granados lives in the Los Angeles area, where he works in the oil industry, and had no previous run-ins with the law.

In July 2013, he and his family were vacationing in Bullhead City, across the Colorado River from the gambling town of Laughlin, Nevada. They stopped at a local Safeway store to pick up some groceries, and Rene’s 19-year-old son, Deven, wandered off on his own.

As Rene was standing in the checkout line, he noticed several police officers enter the store but didn’t pay much attention. He finished paying for his groceries and was looking for his son when a commotion erupted in one of the aisles.

As Rene came around the endcap and looked down the aisle, he saw that several police were dragging Deven up off the floor. A security officer had seen Deven slip two CDs into his pants, and he was being arrested for shoplifting.

As police attempted to handcuff him, Deven pulled away and had to be wrestled to the ground, according to the police reports.

Rene did not see any of that. By the time he turned down the aisle, Deven was standing and being escorted toward the exit at the front of the store.

As Rene describes it, he saw his son with a bleeding forehead and being restrained by several officers.

Rene started walking down the aisle, calling out, “That’s my son. What’s going on?”

“He’s going to jail for assaulting an officer,” Rene was told.

Rene said he stopped approaching the group when told to stay back. As police ushered Deven past him, another officer approached Rene and asked his son’s name and age, which he provided.

Rene wound up at the end of the aisle with a police officer and the store security officer.

That’s where the major discrepancies between police reports and video evidence begin. Defense lawyers were only able to obtain the store security video that was provided to them by police. It does not capture what went on in the aisle but instead begins with Rene, the police officer, and the store employee standing at the endcap as other police escort Deven past them and toward the front entrance.

Rene Granados’s version, which is consistent with the video, is that the police officer continued asking him questions as they reached the end of the aisle. As his son was being dragged past, Granados turned in the opposite direction and started to walk away.

At that point, the store security officer told Granados to come to his office.

Granados refused because he wanted to go to the police station to bail his son out of jail.

“Next thing I know after that, I’m getting tackled from behind,” Granados said. “I get tackled from behind, and then the officer starts yelling ‘stop resisting.’ I’m not resisting. I’m already on the floor. That was it.

“He just tackled me from behind. That quick.”

Granados was initially charged with a single count of hindering prosecution, a criminal misdemeanor. He was later acquitted on that charge in Bullhead City Municipal Court. But the judge found him guilty of a different charge, disorderly conduct, which had been filed by city prosecutors subsequent to the arrest.

SELF-DEFENSE

The description by police of what happened is more detailed, and not consistent with the video. There are minor discrepancies about what took place in the aisle, particularly details over what was said.

But the police reports are consistent about what happened at the endcap, the part captured by video.

“As the escort team past (sic) with Devon, Rene raised his right arm towards me, and began to twist passed (sic) me, towards the escort team and Devon,” one officer wrote, misspelling Deven’s name. “In order to defend myself, from what appeared to be an immediate attack, and to defend Devon and the escort team from assault, I immediately grabbed Rene’s right arm, applied an arm bar, forcing Rene to the ground.”

That version was supported in the different police reports of several officers, including the assertion that Granados “raised an arm and attempted to push past” the first officer.

One officer hit Granados with his knee. When Granados did not stop squirming, that officer pulled his Taser and was going to deliver a debilitating jolt, but the Taser wasn’t working.

The video doesn’t show what happened once the scuffle was on the floor.

Granados said he did not resist police once they grabbed him, but was startled and reacted by tensing up.

“If my body tenses because I’m getting beaten up basically from behind, a knee in the back of your neck, how are you supposed to do it?” he said. “I might be a little stiff, but that’s because it’s hurting.”

Granados was taken first to Bullhead City jail, then later to Mohave County jail in Kingman, where his wife bailed him out the next day.

Deven Granados initially faced multiple felony charges, but within a few days reached a plea agreement with prosecutors and pled guilty to a single count of misdemeanor assault in Bullhead City justice court, which is a county court separate from the city court.

Rene Granados believed he’d done nothing wrong, and fought the charges.

He’d spent 18 years in the grocery industry, and knew the store would have security tapes that would show he’d done nothing the police had accused him of, he said. He didn’t hire Eckhardt’s firm immediately, and by the time it took over his case, the store recordings had been erased, so all that was available was the video the police had recovered, he said.

The video clearly showed Granados did not interfere with police, and so it seemed it would be simple to get the hindering prosecution charge dismissed, Eckhardt said. But the city prosecutor later added the second charge, disorderly conduct.

“When I got the video I was very confident, and unfortunately at the end of the case, I was very disheartened with what happened,” Eckhardt said. “It was an airtight case. I was very confident going into it that they had nothing.”

But as soon as the city added the new charge, it was clear the prosecutor was determined to get a conviction for something, he added.

“That prosecutor knew he had no case and had to get something because they weren’t going to allow him to get off without any charges and have a good civil claim available.”

PROTECTING THE CITY

Protecting cities from civil liability is one reason that judges give special credence to the police version of events, even if there is evidence that contradicts it, said David Dorfman, [a law professor at Pace Law School](#) in New York. Dorfman continues to practice in city courtrooms through the university’s legal clinic. He also is the author of a widely cited report on false police testimony, [Proving the Lie: Litigating Police Credibility](#).

Someone who is wrongly arrested can bring a civil suit against the police department and the city. The most common claims are false arrest, malicious prosecution, and, if the defendant is roughed up, excessive force or police brutality.

Because of that legal liability, it is important to the city that the person be convicted on some charge—any charge—to show that the arrest was justified, said Dorfman, who was speaking generally and not about any particular case.

Common charges are things like disorderly conduct, interfering with police, resisting arrest and assault. The practice is so common that it’s gotten a name in the legal community: “cover charges,” Dorfman said.

The first thing a criminal conviction of any kind does is make it tough to find a lawyer to bring a lawsuit for excessive force or false arrest, he said. Since most defendants cannot afford a lawyer, their only chance

to get one to file the lawsuit is through a contingency fee, wherein the attorney is paid a percentage of the damages collected. Few attorneys will take an excessive force or false arrest case on a contingency basis if there is a conviction against the defendant.

If the civil lawsuit does get filed, the chance is slight that any significant monetary damages will be awarded if the person bringing it has a conviction, because that will be deemed as proof that he or she was at least partially at fault, Dorfman said.

“If you are convicted it’s really, really bad because that conviction will be admitted into evidence and the attorney defending the municipality and defending the cops is going to make a lot out of it,” Dorfman said.

“If there is any evidence at all of resisting, obstruction of government administration, assault on the police, or any provocative conduct that would likely cause the police to overreact, you are not going to get damages. You may take it to trial, and you may even win. But the jury or the judge is going to give you a dollar in damages if there is any proof that you yourself provoked some of what happened. That would be true even if you were beaten to within an inch of your life.”

‘COCKAMAMIE EXPLANATION’

Legally, a police officer’s testimony is not supposed to carry greater weight than that of any other witness simply because of that law-enforcement job status. But in reality, judges, just like jurors, tend to believe police over defendants.

Part of that is simply respect for the integrity of police and the dangerous jobs they do. But part of it is the mistaken assumption that the police officer has no stake in the outcome of a case, Dorfman said.

Some police departments have quotas on arrests and citations. Even if there is no formal quota system, those statistics are routinely tracked for each officer in most police departments, he said.

Beyond that, virtually all criminal misdemeanor cases are settled with plea agreements. They rarely go to trial, where conflicts in police testimony are exposed and questioned. So police know their version of events will almost never be challenged.

That is particularly true in misdemeanor cases, since hiring a lawyer can cost thousands of dollars, and the penalties for conviction are usually only a few hundred dollars. Most people simply plead guilty.

When a case does go to trial and inconsistencies are exposed, there is also pressure on city court judges to find a way to make the police version plausible, Dorfman said. Ruling that a police officer lied on the stand triggers severe consequences. It could lead to a formal investigation of the officer, and defense lawyers in the future could use the finding to taint new cases the officer is involved in.

A judge’s finding that an officer is untruthful also could draw complaints from police administrators to the mayor or other city officials, which could jeopardize the judge’s job.

When there are conflicts between police reports and video evidence, the explanation given is typically that the video did not capture an entire incident, or that the officer was in a position to see things that would not show up in the recording.

“All they have to do is give one cockamamie explanation for why it’s not on it,” Dorfman said. “It can completely not pass the laugh test. But if the judge accredits it, the appeals court has no real basis to reverse, and that happens all the time.”

“Videos are not always the best evidence, particularly with bad angles, distances and items blocking the way,”
- Martin Rogers, Chief City Prosecutor in Bullhead City

If a conviction is appealed, the appellate judge is typically prohibited from questioning a trial court judge’s assessment of the facts or weighing of witness credibility. That is the case in Arizona, where city court verdicts are appealed to county superior courts. Court rules dictate a superior court judge cannot overturn a city judge’s findings unless they are clearly contrary to the evidence or the law, and that those errors had a substantial impact on the outcome of the case.

‘CIRCULAR ARGUMENT’

The videotape of Granados’s arrest was played at his trial in Bullhead City court. But the judge did not seem to pay much attention to it either at the time or in his final verdict, defense attorney Eckhardt said.

“He glossed over the inconsistencies so much that it didn’t even matter.”

Because Granados did not appeal his conviction, there is no trial transcript or recording available.

He was convicted on a single count of disorderly conduct and fined \$600. By then, Granados had spent thousands of dollars on legal fees and travel cost to fight the charges, he said. It just wasn’t worth it to spend more money to appeal.

Martin Rogers, the chief city prosecutor in Bullhead City, [said in a written statement](#) to the Goldwater Institute that the video of Granados’s arrest doesn’t prove anything. Much of what happened is obscured by display racks, and all that is really clear from the video is that a struggle between police and “a person” occurred, he said.

“Videos are not always the best evidence, particularly with bad angles, distances and items blocking the way,” Rogers wrote.

After viewing the videos approximately 10 times after inquiries from the Goldwater Institute, Rogers concluded “they were non-determinative to me based upon sales displays and stacks of boxes that obscured most of what was going on.”

The store security officer also backed the police version of events, he said.

Rogers denied Granados was prosecuted to insulate the city from a potential lawsuit.

“This is not a concern when we prosecute misdemeanor cases in the Bullhead City Prosecutor’s Office,” he said. “If Mr. Granados or his attorney believed he was wrongly convicted they should have filed an appeal with a higher court.”

A spokeswoman for the Bullhead City Police Department would not comment beyond the prosecutor’s statement. Municipal court judge Pete Psareas declined to comment.

Eckhardt said he found the disorderly conduct conviction particularly troubling. Granados was not charged with resisting arrest, and was acquitted of interfering with police. So the only basis for the disorderly conduct charge was that he was arrested. That makes no legal sense, Eckhardt said.

“It’s a circular argument,” he said. “If being arrested is disorderly conduct, then they shouldn’t have arrested him. They are the ones that created the disorderly event.”



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