

Judge throws out last charge against ex-sergeant

He also blasts an offer to drop the final count if firing not challenged.

**By Jim Schultz, Record Searchlight
February 6, 2006**

The sole remaining misdemeanor charge has been dismissed in the case of a former sergeant with the Shasta County marshal's office who was acquitted in November of assaulting and mistreating a jail inmate.

In his ruling, which was made public Monday, retired Modoc County Superior Court Judge Robert Barclay tossed out the remainder of the criminal case against Daniel William Neville-Greenlaw, 38.

In dismissing the charge, Barclay criticized an offer apparently made by the attorney representing the marshal's office following Neville-Greenlaw's acquittal last year to drop the final count against his client if the ex-sergeant agreed not to challenge his firing.

"We're very gratified the system worked in this case," said Neville-Greenlaw's attorney, Harry Stern of the Pleasant Hill-based law firm, Rains, Lucia & Wilkinson. "The judge did the right thing by dismissing the remaining count."

His client, he said, was "relieved, excited and thankful" about the ruling,

But Shasta County Deputy District Attorney Kelly Kafel was not as happy.

Kafel said Monday that she had not yet seen Barclay's order, but was disheartened to hear that the final count had been dismissed.

"I'm disappointed to hear that the judge has made the order," she said.

A Shasta County jury found Neville-Greenlaw not guilty of assault by a public officer under color of authority and inhumane treatment of a prisoner, both misdemeanors, in connection with a March 22, 2004, incident at the Shasta County Courthouse.

But that jury could not reach a verdict on the remaining count of filing a false police report.

The original charges stemmed from Neville-Greenlaw's alleged use of pepper spray on an uncooperative inmate, identified as Raymond Iorg.

In his two-page ruling, Barclay wrote that It would be unlikely for the prosecution to obtain a conviction on the false police report count since that charge was based an the two more serious charges of which Neville-Greenlaw had been acquitted.

"The court notes that the jury hung an the false report charge even when the evidence about that charge was accompanied by evidence regarding excessive force," Barclay wrote, "It is unlikely that the prosecutor could obtain a conviction on the false report charge in the absence of that evidence."

The judge also issued a rebuke of the reported offer to drop that final count if Neville-Greenlaw agreed not to fight his firing.

"There is evidence that a representative of defendant's employer told defense counsel that the false report criminal charge would be dropped if defendant dropped his administrative challenge to his termination," Barclay wrote. "This indicates that the retrial may be being used to harass defendant into relinquishing his administrative rights. At the very least, the court would consider this a flagrant attempt at usurpation of the powers of the criminal courts to affect the outcome of civil proceedings and should not be allowed under the guise of plea negotiations or any other façade."

Stern said attorney Daryl Kennedy, who represents Shasta County's courts, of which the marshal's office is a division, made the offer to him following Neville-Greenlaw's acquittal.

"It led me to believe that they were trying to leverage the employment case with the criminal case," Stern said, adding he did not believe the deal to be "entirely kosher."

Stern said, however, he did not know if Kennedy was authorized to make such an offer, noting that the Shasta County district attorney's never approached him with that deal during formal settlement negotiations.

Kennedy, who said he has not seen Barclay's ruling, declined to discuss the issue Monday, citing it as a pending personnel matter.

Stern said that Neville-Greenlaw definitely will try to get his sergeant's job back, as well as more than a years' worth of back pay. He said he hopes the case will be heard by an arbitrator within two or three months.

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