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Khanefah Boozer

IN THE COURT OF COMMON PLEAS
PHILADELPHIA COUNTY, PENNSYLVANIA

KHANEFAH BOOZER	:	CIVIL DIVISION
	:	TRIAL SECTION
Plaintiff	:	
v.	:	160900497
	:	
RYAN WALTMAN, et. al.	:	
et. al.	:	
	:	
Defendants	:	

PLAINTIFFS' SETTLEMENT CONFERENCE MEMORANDUM

I. INTRODUCTION

Plaintiff Khanefah Boozer has brought claims against several Philadelphia Police officers for his wrongful arrest, imprisonment and prosecution that arose from an incident that occurred on January 22, 2011 on Abbottsford Street in Philadelphia. In the early morning hours on January 22, Khanefah Boozer and three friends were returning from a night out at a nearby bar when Bruno Rosales, one of Mr. Boozer's friends, fired his handgun several times in the air for a drunken and reckless thrill. After witnessing the shooting, Mr. Boozer said goodbye to his friends and drove away. The three others walked to the house of Jamar Amos, one of the friends. Several Philadelphia police officers who were investigating a burglary in the neighborhood heard

the shots and came to the area to investigate. Two officers stopped the three, Rosales, Amos, and Rosales' friend Shizz who was not known to Mr. Boozer, frisked them and let them go when they found no weapon. Another officer in a vehicle stopped Mr. Boozer's vehicle further up Abbottsford Street, held him for investigation and later arrested him for aggravated assault as a felony of the first degree, violations of the Uniform Firearms Act and related offenses after Officer Ryan Waltman falsely claimed that he observed Mr. Boozer fire the gun at him.

As a result of Waltman's statement which the other defendants attempted to corroborate in various ways, Mr. Boozer was criminally charged by the Philadelphia District Attorney. His bail was set at \$500,000 and he remained incarcerated from January 22, 2011 until he was acquitted following a jury trial on September of 2014-three (3) years and eight (8) months later. The officers were intent on arresting and charging someone for the shooting and it is apparent that they chose Mr. Boozer because they could assert that he was fleeing the scene in his vehicle. Mr. Boozer gave a statement that explained all of his actions that night and that identified Rosales as the shooter. Police never interviewed any of Mr. Boozer's friends. They recovered no gun, found no forensic evidence to support the allegation that Waltman had been shot at and developed no corroborating evidence that Boozer possessed or fired a gun that night. At trial, Mr. Rosales testified and admitted to possessing and firing the gun just as Mr. Boozer described, notwithstanding the fact that he was admitting under oath to several criminal acts that would have exposed him to a lengthy jail sentence.

The officers complete disregard for their legal and moral duties to report truthfully and investigate honestly led to Mr. Boozer's loss of liberty for nearly five years.

II. FACTUAL BACKGROUND

On January 22, 2011, Khanefah Boozer was 26 years old. He lived on Mckinley Street in the Oxford Circle section of Philadelphia and he had a full time job at Home Depot where he earned approximately ten dollars an hours. On that day, he joined three friends, Bruno Rosales who he knew since childhood, Jamar Amos and a friend of Mr. Rosales with whom Mr. Boozer was not acquainted for a night out. The four of them travelled to two bars, ending up at Buffy's in Germantown. Mr. Boozer drove his own car to the bars while his friends travelled with Mr. Rosales in his car. While each of his friends had several drinks and became inebriated to varying degrees, Mr. Boozer, who is abstemious, drank only non-alcoholic beverages. Near the end of the night (at approximately 1:30 a.m.), Mr. Boozer offered to drive his friends home from a concern about their driving under the influence of alcohol. Mr. Rosales refused and insisted that he drive himself home. Accordingly, Mr. Amos and Shizz left with Mr. Rosales but Mr. Boozer followed them in his own car out of a concern for their safety. As Mr. Rosales approached Abbottsford Road, the location of his house, he lowered the window of his car, removed a handgun from its holster on his person, and fired several shots in the air for no reason other than to enjoy a drunken thrill. He then drove down Abbottsford Street, stopped his car, fired a final round into the air and parked his car. Mr. Boozer stopped his own car in the driving lane of Abbottsford Road, exited, chastised Mr. Rosales for firing the gun then shook the hands of each of his friends, said goodbye and drove away for home. Moments later, at the end of Abbottsford Road, no more than a 200 feet away, Mr. Boozer was stopped by a marked police vehicle and arrested. He and his car were searched and no gun, shell casings or other ballistics

evidence was recovered. Back up the street, two plain clothes officers (defendants Waltman and Palma who stated to them "you guys shot at me") stopped Mr. Rosales, Mr. Amos and Shizz who were both frisked and released without being questioned.

Officer Ryan Waltman, one of those plain clothes officers gave a statement that he was investigating a burglary on Sylvania Street (the next street over from Abbottsford Street) when he heard several gunshots nearby. He stated that he then ran on foot toward Abbottsford Road while his partner officer Palma took their unmarked car and drove in the direction of the shots. Waltman says that he arrived at Abbottsford Road and observed Mr. Boozer standing in the road next to his car. Waltman says that he announced himself as an officer and that Mr. Boozer turned, raised his hand and fired one shot at Waltman who then ducked behind a car. Waltman says that Boozer then got in his car and drove up Abbottsford Road where he was stopped by officers in a marked police car. The officers who stopped Mr. Boozer's car indicate that he was not speeding away and fully cooperated with the stop. Officer Palma who states that he arrived on the scene of the shooting after Mr. Boozer drove away and states that Waltman told him that he had been shot at pointing to Mr. Boozer's car.

It is worthwhile to pause in the rendition of the facts to note that Mr. for marijuana possession, he has no criminal record and certainly has no history of violence of any sort. He was not on probation at the time, was not wanted by police, was not involved in any criminal enterprise and held a regular 9:00-5:00 job at Home Depot. He had not been drinking, a fact that was not impeached by any observations by the police following his arrest. In sum, there was absolutely no reason for him to fear the police and certainly none to take shot at an officer if indeed he possessed a firearm, which he did not. The claim that he would shoot at a police

officer out of the clear blue sky makes no sense whatsoever given the circumstances of his life.

After his arrest, Mr. Boozer was taken to the Northeast Detective Division where he gave statement and provided the facts as set forth above. He gave the names and addresses of his friends all of which were true and accurate. He stated that Mr. Rosales owned a firearm which was also proven by police who found a record of gun registered to him. Indeed, police obtained search warrants for their houses and vehicle though none of the three were ever interviewed. Both Rosales and Amos testified at trial that neither police nor detectives ever bothered to contact them for an interview.

In Waltman's initial incident report, he stated that he observed Mr. Boozer fire a shot at him (after Waltman announced himself as a police officer) then get in his car and drive up the block where he was stopped. Later on the night of the incident, after no gun, shell casings, strike marks or other ballistic evidence was recovered at the scene, Waltman, after consulting with the assigned detective, amended that report to note that Mr. Boozer had been standing next to another unknown, mysterious black male who fled the scene after the shot was fired. No one else who witnessed any part of the incident, neither police personnel at the scene nor a civilian who observed Mr. Boozer enter his car and drive away, stated that they saw another individual flee the scene. It is believed that this amendment was added to provide a possible explanation for why no gun was recovered, i.e., it was handed off to the mysterious person who made off with it.

At trial, the defense called Bruno Rosales who testified to Mr. Boozer's version of events notwithstanding the obvious jeopardy into which that testimony placed him. He testified that after Mr. Boozer said his good byes and shook his friends' hands, he observed police coming

down the block so he placed his gun in the glove box of his car which was parked on the street. His car was identified in police photos and paperwork as being there during the investigation. Rosales, Amos and Shizz then walked away from the car and were stopped by two plain clothes officers who frisked them and let them go. Rosales testified that later he went out and retrieved the gun from the glove compartment and took it to another residence before the car was searched.

Aside from the testimony of officers Waltman-who gave his account of the shooting-and Palma who backed up Waltman with after the fact corroboration, the Commonwealth called an expert in gunpowder residue analysis. She testified that about 4-5 particles of gunpowder residue were found on Mr. Boozer's jacket, substantially less than would be expected to be present had he fired the gun, but just the volume that one would expect to be transferred from a casual handshake with someone who had just fired a gun several times. Thus, the only ballistics evidence recovered in this case was entirely consistent with the account of the events given by Mr. Boozer and his friends.

There was no radio tape of any 911 dispatch and other officers stated that the only thing they heard over the police radio was shots fired, not officer assist, officer fired at or officer down which is what would have been broadcast if the officer believed he had been shot at. Officer Palma, Waltman's partner and allegedly the second officer on the scene, gave no statement nor any recorded interview which is extraordinary for a case involving shots fired at a police officer. Finally, the detectives did not request that a crime scene unit come to the scene to document the crime or seek evidence of gunfire even though Mr. Boozer had truthfully identified