

# **FBI Settles With Environmentalist**

David Rosenzweig

Nov. 15, 2005

The FBI has agreed to pay \$100,000 and issue a letter of regret to an environmental activist who was mistakenly jailed as a suspect in a string of arsons and vandalism at four SUV dealerships in the San Gabriel Valley in 2003, his lawyers said Monday.

Josh Connole, who spent four days behind bars before being freed, sued the FBI, contending his civil rights had been violated and his reputation destroyed.

The attacks, carried out in the name of the radical Earth Liberation Front, destroyed or damaged more than 125 SUVs. A Caltech graduate student, William Cottrell, was later convicted and sentenced to prison in the case.

Had Connole's suit gone to trial, the FBI would have been up against testimony from a former federal prosecutor who said she warned an FBI supervisor that his agents had no probable cause to arrest Connole.

The 27-year-old Connole, who now lives in Oregon, said Monday he was pleased with the settlement and hoped it would send a message to the law enforcement community that "you can't throw people's civil rights out the window in the name of fighting terrorism."

Connole's attorneys, William Paparian and John Burton, said the \$100,000 payment was arrived at following negotiations mediated by a U.S. magistrate judge in Los Angeles. They said the FBI agreed to issue a letter of regret but that the language was still being worked out.

Assistant U.S. Atty. Richard Patrick, who represented the FBI in the talks, did not return phone calls seeking comment.

In a deposition in September, former Assistant U.S. Atty. Beverly Reid O'Connell, now a Los Angeles County Superior Court judge, recalled receiving an urgent phone call during the early hours of Sept. 12, 2003, three weeks after the attacks, from FBI senior supervisor Edward Ochotorena, seeking a green light to arrest Connole.

Connole, who was under 24-hour surveillance at the time, had just driven to the Pomona police headquarters to report that he was being followed by strange men in unmarked cars.

"We have a situation going on out here. We have officer safety issues. I'm going to arrest him," O'Connell quoted Ochotorena as telling her.

"You don't have probable cause to arrest him. I'm not giving you our authority and you better document it," O'Connell said she told the agent.

O'Connell said their conversation was heated. "I was yelling at him," she said.

Notwithstanding her warning, Ochotorena directed a team of FBI agents to arrest Connole immediately. Connole was taken to an FBI office in West Covina for questioning and booked into the West Covina Police Department jail on suspicion of arson.

West Covina police, who participated in Connole's arrest, have apologized, saying they regretted the notoriety he had received. The city gave Connole \$20,000 to settle a damage claim.

During a deposition taken in July, Ochotorena said he felt no need to apologize and refused to concede that Connole was innocent, despite the fact that he is no longer a suspect in the case.

“I don’t have any evidence that places him at the scene, but by the same token, I don’t have any evidence that says with 100% certainty, as you put it, that he was not involved in the crime,” Ochotorena said.

Ochotorena went on to suggest there was a “remote possibility” that Connole might have been involved in the “planning or execution or otherwise on the periphery of the crime.”

The FBI official noted that a law enforcement bloodhound had led his handler to Connole’s doorstep after being exposed to a scent from a cigarette lighter that was recovered from the scene of one arson attack. Ochotorena said the dog’s “hit” still troubles him.

Burton and Papanian contended the dog-sniffing evidence was nothing more than a “Rin Tin Tin fantasy.” In the lawsuit, they said there is no scientific basis for taking a weeks-old scent from an object like a cigarette lighter, have a dog distinguish it from other human scents and follow it to the owner.

“The literature is replete with instances of a dog appearing to follow a scent when it is, in fact, taking cues from its handler,” they argued.

Connole came to the FBI’s attention after television stations broadcast footage of a roaring blaze at a Hummer dealership in West Covina the night of Aug. 22, 2003. The next day, a woman telephoned the FBI to report her suspicions about a small group of environmentalists who lived as a collective across from her home in Pomona. She said she had seen cars with out-of-state license plates parked on the street on the night of the arsons.

Connole, who grew up in Orange County, lived at the address as part of a cooperative called Regen V, which stood for regeneration of energy. He drove an electric-powered car, installed solar panels and was active in the antiwar movement.

FBI Agent Stanley Snock, assigned to head the investigation, said during his deposition that he ordered a stakeout of three houses occupied by the co-op’s members. He said their names were turned over to an FBI investigative analyst who keeps tabs on domestic terror groups.

The analyst, a civilian FBI employee, provided information that “led me to believe Mr. Connole probably had beliefs that would be conducive to someone who might perpetrate an ELF [Earth Liberation Front] action,” Snock said.

Asked to explain, Snock said that besides belonging to a collective that was “very pro-environment,” Connole was affiliated with Food Not Bombs, a movement that espouses diverting money from the military to feed the world’s hungry.

The agent acknowledged, however, that he knew of no link between Food Not Bombs and domestic terrorism.

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