

Pepper Spray Plaintiffs

Ordered New Trial

Spring

21 June 2000

Two and a half years after Humboldt County Sheriffs began arrogantly sewing Q-Tip holsters onto their weapons belts and unwittingly kicked off international outrage at their pepper spray tactics, the department is in the hot seat again. The very same officers now find themselves in another sticky, or rather stinging, situation arising from the same pepper spray incidents. On May 4, the 9th US Circuit Court of Appeals issued a unanimous verdict against the Humboldt Sheriffs, and in favor of those of us who were pepperswabbed and sprayed.

In late 1998, we filed with the appeals court to ask for a reversal of Federal District Court Judge Walker's decision to toss our civil rights suit out of court after a jury split four-to-four. We also disputed the "qualified immunity" protection Walker granted to the policy-making officers. The protection dropped their names from the suit and let them off the hook from personal liability, leaving only faceless departmental entities. We won hands down on both aspects of our appeal.

"A rational juror could easily conclude that there was sufficient evidence for a verdict in favor of the plaintiffs. Accordingly, we reverse the district court's decision to enter judgment for defendants Humboldt County and its Sheriff's Department," the appeals court ruled. "We remand this action for a new trial."

The appeal decision also addressed in depth the liability of the individual officers and concluded that "the district court erred in deciding that these officials were entitled to qualified immunity as a matter of law. We reverse the district court's decision to dismiss Sheriff Lewis and Chief Deputy Sheriff Philp."

Our new jury trial will most likely occur in the fall or winter of this year.

This landmark decision will have a ripple effect in that it sets a legal precedent that will be helpful to activists fighting the growing law enforcement trend of chemical weapons deployment to quell political dissent. On a larger scale "Headwaters Forest vs. Humboldt County" now provides new case law that helps to undermine the sinister "qualified immunity" protection often afforded to officers in all kinds of excessive force cases.

Abolitionist Frederick Douglas wisely said, "power concedes nothing without a demand." When the pepper spray videotapes hit the news, outrage sparked debate and action, which has only intensified on the heels of further incidents like the WTO Seattle protests. Our pepper spray case would never have made it this far without people raising some hell about injustice, so thank you, everyone. Let our songs and actions, our love and rage, be our demand, and let it bring about a wilder, greener world.

Donations for grassroots education and trial expenses are sorely needed and greatly appreciated. Contact the Pepper Spray Fund c/o Trees Foundation, POB 2202, Redway, CA 95560; (707) 923-4377; trees@treesfoundation.org.

To obtain a video documentary by Headwaters Action Video Collective (HAVC), "Fire in the Eyes," showing police pepper spray footage and background on the struggle for the ancient redwoods, contact HAVC at havc@havc.org or by voicemail at (707) 459-5490 ext. 582.

To read the full 9th Circuit Court appeal decision, along with other articles and links about our case, check out www.monitor.net. If you loathe computers and the internet, write to the pepper spray plaintiffs c/o Trees, and we'll send you any materials you want in hard copy.

The Ted K Archive

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