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Judge finds man not guilty in drug case involving controversial squad

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 By Tanya Eiserer/Reporter
teiserer@dallasnews.com | Bio
12:15 PM on Mon., Feb. 1, 2010 | Permalink

Another case involving a controversial specialized unit whose cases have been the subject of a review by the Dallas County District Attorney's office fell apart last week.

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At issue was defense attorney Bill Wirskye's contention that the officers improperly charged Michael Cano with drugs that belonged to another man. At key points during the hearing, the officers professed not to remember details about Cano's arrest.



And while the defense attorney Bill Wirskye wasn't able to prove his theory, the hearing raised enough red flags that Senior District Judge Pat McDowell found the defendant, Michael Cano, not guilty one drug count after hearing testimony from the officers.

"I just don't have any affirmative link between the dope and Mr. Cano," McDowell said from the bench.

McDowell has previously thrown out charges against two other men after finding that the consent had not been voluntary. In those cases, witnesses passed polygraph tests about the search.

The squad came under scrutiny last year after an arrest put a man behind bars for 10 months on what prosecutors say were false charges. A videotape later showed that the accused man was not carrying a bag that contained drugs and a gun as police had alleged. A Dallas police officer received a 15-day suspension over that incident.

"Here's another case with this same group of officers," Wirskye said. "Every time one gets put under the microscope at the courthouse, it goes away."

On May 21, 2008, Cano and Juan Rodriguez were arrested after the officers raided Cano's home on Mapleton Drive.

On this day, two members of the unit -- Senior Cpl. David Durica and the now-retired Cpl. Frank Poblencz - had asked three patrol officers to help them take Cano into custody on a felony drug warrant related to earlier encounter with the unit. Durica has since been transferred out of the unit.

According to the Cano arrest report, which lists Poblencz as the author, heroin was found in plain view in a yellow plastic container.

In Rodriguez's report, which lists Durica as the author, heroin was found in his backpack in a round plastic container with yellow on top. The report also states Rodriguez told officers that the drugs were in his backpack and that he said they belonged to him.

Senior Cpl. Robert O'Connor, one of the patrol officers who helped out with the arrest, testified that he found heroin in the backpack after Rodriguez told him they were in there.

O'Connor said his rookie, Officer Mario Tamez, found the heroin that officers charged Cano with in a container on the kitchen countertop. (The arrest reports do not mention anything about a kitchen countertop.)

From the stand, Tamez said he couldn't remember where he found the heroin other than he knew it was in the kitchen.

Tamez had testified during a prior hearing that he found the drugs sitting on the table and that they were out of backpack in a yellow container. He testified that he assumed that Rodriguez would be charged with the heroin.

Asked Friday during the hearing if thought Cano should be sent to prison based on his recollections of the events, Tamez said no.

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The judge agreed.

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Posted by Paul @ 12:36 PM Mon, Feb 01, 2010

Now that's strange....

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