

# Police must pay \$6.5 million after killing man holding water nozzle

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At a March 2011 news conference, Long Beach Police Chief Jim McDonnell displays... (Michael Robinson Chavez...)

The family of a 35-year-old man who was shot to death by Long Beach police after they mistook a water hose nozzle he was holding for a handgun was awarded \$6.5 million in damages by a federal jury Thursday.

After a day of deliberations, the jury found that two officers violated Douglas Zerby's constitutional rights and were negligent in the December 2010 fatal shooting outside his Belmont Shore apartment.



Attorneys for Zerby's son and parents argued that officers never delivered any verbal warning to Zerby and that it was a case of contagious fire where one officer fired by mistake, prompting another officer to shoot based on the belief he was under fire.

By contrast, attorneys for the city argued that Officer Jeff Shurtleff, a six-year veteran, and Officer Victor Ortiz, a 10-year veteran, opened fire because they believed that Zerby was about to shoot them and mistook the nozzle for a handgun.

To bolster their argument, they noted that prosecutors declined to charge the officers' finding that Zerby was in possession of an object believed by both residents and responding officers to be a firearm, and that the position of his arms was consistent with someone making a motion to point a gun and shoot.

Attorney Dale Galipo, however, argued to jurors that officers were concealed and covered before they delivered the deadly rounds in the 5300 block of East Ocean Boulevard. Experts testified it was unlikely Zerby was standing up with his hands outstretched pointing the nozzle at police because he lacked hand wounds consistent with that position.

At the time, authorities said they were on their way to an apartment in the Belmont Shore neighborhood after someone reported seeing a man with a handgun.

Zerby was sitting outside a friend's apartment, holding what police believed was a handgun, pointing it to his side and waving it around as Ortiz and Shurtleff took cover inside a nearby apartment.

The officers did not attempt to identify themselves to Zerby nor did they order him to drop his weapon, according to a district attorney's report.

The officers requested additional officers, a police helicopter and the Long Beach Police Department's mental evaluation team. But the officers told investigators Zerby pointed the nozzle at them, prompting their gunfire.

Ortiz was 38 feet away when he fired his shotgun and Shurtleff was about 23 feet away when he fired his handgun.

Zerby was pronounced dead at the scene and a black pistol-grip water nozzle with a metal tip was recovered.

A third officer watched Zerby from 56 feet away through the telescopic sight of a rifle but did not fire, according to a prosecutor's declination.

An autopsy showed that Zerby had been shot 12 times. He had a blood-alcohol level of 0.42% and had valium and THC in his system at the time of his death.