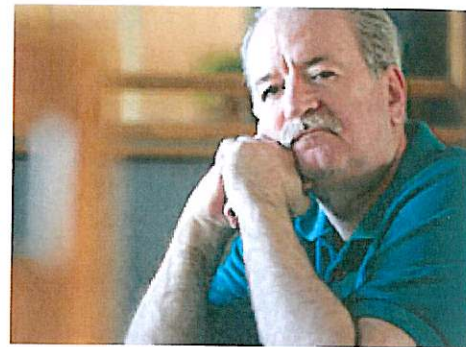


Friday, March 9, 2007

## Denied phone call ruled illegal

**A federal appeals court faults Sheriff's Department in its detention of inmate John Maley, cuffed to a hospital bed.**

By RACHANEE SRISAVASDI  
The Orange County Register



John Maley

Handcuffed to a hospital bed, retired Huntington Park police officer John Maley asked Orange County Sheriff's deputies if he could make his phone call.

Maley, injured while being arrested in April 1998 on allegations that he flashed a badge and gun at some neighborhood teens, was fearful that his family wouldn't know where he was.

The deputies said, "no," contending the right of an arrestee to use the phone doesn't apply in a hospital.

The deputies were wrong, according to a federal appeals court ruling released this week.

For 58 hours, deputies allegedly kept Maley chained to the bed at Western Medical Center in Santa Ana, tightening the handcuffs when he complained, according to the ruling. Deputies also allegedly threatened Maley with a gun, the ruling said.

The unpublished decision by the 9th U.S. Circuit Court of Appeals overturns a lower court decision that sided with the Sheriff's Department and the two deputies. Justices ruled the deputies broke the law. It is apparently department policy to prohibit arrestees from making hospital calls – a mandate was in effect as of last month, according to Maley's lawyer, Joseph H. Low.

Sheriff's officials would not comment on the policy.

Maley, 50, who lives in Fountain Valley, learned Thursday of the ruling, which means his lawsuit will be re-tried.

"Being a policeman ... I knew the importance of doing things by the book and following the Constitution," Maley said. "They not only violated the law, they threatened me ... they put a gun to my head. (This) was willful and intentional."

Sheriff's officials, according to the ruling, defended their actions, arguing there were security concerns at the hospital and saying it was "physically impossible" to give Maley phone access.

The former Royal British Marine had been retired from the Huntington Park Police Department for six years when officers from Fountain Valley and Huntington Park, as well as sheriff's deputies, raided his home that April on suspicion that Maley impersonated a police officer.

Police seized several firearms as well as Maley's photo album, which allegedly contained pictures of Huntington Park officers having sex with prostitutes and exposing themselves while in uniform. Maley was charged with 10 counts, nine of which were dropped. He said he pleaded guilty to misdemeanor possession of tracer ammunition, but did not do any jail time. The photo album, according to court documents, was given by Fountain Valley police to the Huntington Park Police Department, in violation of evidence laws. The photos subsequently disappeared.

In April 2003, Maley filed a federal lawsuit against all three law enforcement agencies, alleging excessive use of force, false arrest and malicious prosecution. Fountain Valley and Huntington Park police settled their part in the case before trial, Low said.

The suit was heard before U.S. District Judge David Carter in Santa Ana. Carter ruled in December 2004 that Maley did not prove his case and was not entitled to damages, Low said.

Maley then filed a federal appeal, which was granted.

"Nothing about detention in a hospital makes access to a telephone 'physically impossible,' " the ruling said. "Furthermore, none of the so-called security concerns cited by defendants are grounds for violating the clear terms of the statute."

Ryan Burris, a sheriff's spokesman, said the department could not comment on the case or the policy, because the recent ruling has not been reviewed. He did add one deputy still works with the department, while the other left in July 2005.

At the Orange County Jail, an arrestee must be allowed to make a call within three hours, he added. But in certain instances, deputies can withhold the phone call if an investigation is ongoing, he said. For example, if deputies are concerned an arrestee is going to call another suspect to warn him, he said.

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I shot the Sherrif, and I shot the deputy

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Police = Uneducated people given a badge and a gun with minimal trainings Sheriffs = Uneducated people given a badge, a gun and minute trainings. Police + Sheriffs = Uneducated thugs

Bob - Mar. 09, 2007

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Can someone tell me what is the difference between Sheriff's deputies and Police Officers. Back East the Sheriff's department handles more civil matters and rarely arrest anyone. just wondering

tj - Mar. 09, 2007

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IT ALL STARTS AT THE TOP, IF THE SHERIFF BREAKS THE LAW, THE DEPUTIES WILL FOLLOW

SICK OF SHERIFF - Mar. 09, 2007

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There's a three strikes law against criminals. How about a one strike law against anyone we put our trust in to hold a gun? One strike against any law enforcement then they're in the slammer for life, that's the only way to regain public trust.

Bob - Mar. 09, 2007

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This whole story sucks. For the cops and for this guy.

sucks - Mar. 09, 2007

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I believe the sheriff department as a whole is a criminal organization. They are nothing more than a bunch of thugs with badges. I have ran in with some sheriffs and they are the most uneducated group of idiots out there. They have no logic and lack any critical thinkig skills. I am a law abiding citizen but I get more scare when I see a sheriff than when I see a know gang member. This is a criminal organization and they should eliminated.

Bob - Mar. 09, 2007

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Another great example of Orange County trying to make it's own laws.

Bev - Mar. 09, 2007

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Ret SGT - Yeah, we all have a problem with the lost evidence. I think we are just so used to hearing it, that we don't even blink anymore when something mysteriously disappears. Unfortunately, this isn't a solo event. It happens ALL THE TIME, but the criminals, or whomever, that is arrested just doesn't know any better or isn't in a position to holler about it.

8a539 - Mar. 09, 2007

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First of all on the pictures of Police Officers with prostitutes: those were pictures of California Peace Officers engaging in illegal activity. Then the evidence was subsequently 'lost'. Does anybody else have a problem with this? These officers WITH GUNS are allowed on our streets? And who are they 'protecting and serving'. What a complete load of bullcrap. I hope he not only wins his lawsuit, I hope he publically outs the criminals in the Sheriff's office, Fountain Valley, and Huntington Park. And people wonder why the police are so reviled?

Ret SGT - Mar. 09, 2007

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i'm not saying they were right, but put a loaded gun to your head while you're at work and you might do some crazy business...or even better, let's just play a game and maybe you're an innocent kid or a psycho shooter but ya still have to work with that guy...you might go a little nuts sometimes. These guys need coping strategies or something...there's a greater problem here.

RAC - Mar. 09, 2007

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Photos while having sex with prositutes? This guy sounds like a real Adam Henry.

ww - Mar. 09, 2007

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Don't you just hate it when the "perps" know more than the cops? I was under the impression that deputies were trained somehow before they are turned out on the streets? No?

dc71c - Mar. 09, 2007

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Here we go again... More abusive deputy sheriffs going overboard making fools of themselves and the agency they represent. When John Maley refiles his lawsuit, he not only should ask for twice as much in

damages as the original suit, but should also site by name each lawless deputy that denied Mr. Maley his rights. Additionally he should also take it one step further by swearing out an arrest warrant on the officer that threatened him with a firearm. Since when are deputy sheriffs above the very laws they are paid to enforce? Start suspending these arrogant officers without pay each time things like this happens, and maybe after a while the message will start to become clear even to their obviously thick skulls: there are NOT two standards..nor two sets of laws! Police abuse is not being dealt with harshly enough.

Maddy Farfan - Mar. 09, 2007

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