

From: Laham, Michael S
Sent: Tuesday, April 20, 2004 7:31 AM
To: 'upndesk@upn13.com'
Subject: Story for Montel Williams - Malicious Prosecution by Irvine, CA Police

TO: Montel Williams,
The Montel Williams Show
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E-mail: http://www.montelshow.com/whats_your_POV/pov.htm
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We were watching your show in which you hosted John Stossel regarding exposure of bullies and his book titled, "Give Me A Break," on Friday, 16 April 2004 at 1:00 PM Pacific Standard Time (PST) on Channel 13 (KCOP TV Los Angeles). At the end of your show, you encouraged the American Public to stand up for their rights to whichever face the bully presents itself in. On previous shows, you have covered topics regarding inappropriate conduct by the police. Thusly, we write to ask you: are you ready for this? We are two Americans who are standing up for our rights, but no one seems willing to listen.

Because of the Irvine Police Department's (IPD) bias against us, the IPD maliciously prosecuted me for a groundless charge of making annoying phone calls, even though my wife and I did not make any such calls and have no criminal record. But the IPD refused to do anything about a violent next-door neighbor with a criminal record who relentlessly harassed us, forcing us to move out of our home that we owned for 16 years.

According to California Civil Procedure Section 1021.7, malicious prosecution is a prosecution not done in good faith. According to *Crowley v. Katleman*, 34 Cal.Rptr.2d 386, 390 (1994), and *Sheldon Appel Co. v. Albert & Oliker*, 254 Cal.Rptr 336, 340 (1989), "not done in good faith" is defined as a case that is 1) brought without probable cause, 2) initiated with malice, and 3) pursued to a legal termination in the suspect's favor.

The annoying phone call case was brought without probable cause because the content of the annoying phone calls consisted of someone munching potato chips, a child playing with a toy, and inaudible mumbling.

The annoying phone call case was initiated with malice because the IPD did not appropriately investigate the annoying phone call case, since they, per Investigator Cristal Hayes, Badge Number 5293, refused to even contact the suspect. See IPD Police Report DR 01-19823. The IPD presented as their evidence two phone traps on my home phone that occurred when I was at work. The IPD refused to listen to the tape that contained the annoying phone calls to verify whether it even sounded like my voice. The IPD tampered with the evidence because the tape that contained the annoying phone calls repeated the same calls multiple times by presenting the exact same date and time stamp over and over again. And the IPD did not even confront me directly about their case; I only learned about the charges when the District Attorney sent me my letter of arraignment.

The annoying phone call case was pursued to a legal termination in my favor. Although the IPD insisted the District Attorney's Office prosecute this case, the case never even went to trial because of a lack of substantial evidence. See the docket report for Orange County Superior Court case IR02HM00216.

The motive behind the above outrageously absurd annoying phone call criminal charge against the suspect is a long history of bias by the IPD against my family. The IPD never contacted us regarding three police reports that non-credible neighbors filed against us. These are DR 00-23319 written by Ofcr Miller badge #5278, DR 01-02842 written by Ofcr Velarde badge #294, and DR 01-18508 written by Ofcr Clanin badge #296. Had the IPD contacted us, they would have learned via airline tickets, travel expense reports, and hotel receipts that we could not have committed these crimes.

On 4/5/02 we filed police report DR 02-06198 against the violent next door neighbor who tried to batter my wife, vandalized our property and continually harassed us. We found a photo on

our car warning that our car was going to be vandalized or stolen. We repeatedly contacted the IPD for assistance. An Ofcr Peasley refused to contact the violent next door neighbor. Ofcrs William Russell and Hung warned us that WE would get arrested if we didn't stop harassing the violent next door neighbor! We elicited one last cry for help but the IPD refused respond. We shared the same stairwell to our front and only doors with this violent next door neighbor. Because the IPD refused to do their job, we moved out of duress on 4/16/02. We accumulated emergency moving costs of \$2,392.64 per hotel and storage invoices.

We requested a proper copy of DR 02-06198 but received a stamped "Controlled Document" by IPD, which contained ONLY our own narrative. It did not contain any record showing that a police officer had contacted the suspect, or the name and address of the suspect, which is required by law per CA Govt Code Section 6254(f). In letters of 9/19/02, 9/27/02, and 10/18/02, we requested a PROPER COPY of DR 02-06198. In letter of 9/25/02, Lt. Sam Allevato refused to give us a proper copy of DR 02-06198, in which we were the VICTIMS, and to which we were legally entitled, according to CA Govt Code Section 6254(f). And the IPD refused to refund us the \$15.00 processing fee for a proper copy of report DR 02-06198.

Because the IPD refused to give us a proper copy of DR 02-06198, we had to use other means to discover the identity of the violent next door neighbor. On 9/24/03, we learned that the violent next door neighbor's full name is Sean Robert Norton, who has a criminal record! On 5/8/99, Officer Hutchcraft of the IRVINE POLICE DEPARTMENT arrested Sean Robert Norton for being under the influence of Methamphetamine; see IPD report DR 99-05576. On 9/30/99 Sean Robert Norton entered a plea of guilty; see the docket report for Case #99HM03522, from the Orange County Superior Court (Harbor Justice Center, Newport Beach, CA).

ON 5/8/99 THE IPD ARRESTED THIS VIOLENT NEXT DOOR NEIGHBOR, SO THEY KNEW HE HAD A CRIMINAL RECORD; YET THEY REFUSED TO CONTACT HIM AND THEREBY SIDED WITH HIM AGAINST US, WHO HAVE NO CRIMINAL RECORD. DID THE IPD DO THIS IN ORDER TO FORCE US TO MOVE OUT OF OUR HOME THAT WE OWNED FOR 16 YEARS? DID THE IPD REFUSE TO GIVE US A PROPER COPY OF REPORT DR 02-06198 SO THAT NO ONE WOULD KNOW THIS?

I sent a complaint via letters dated 4/24/03 and 5/24/03, both by certified mail, to the City of Irvine. These two letters described how the Irvine Police Department committed malicious prosecution against me, in violation of California Government Code Section 9149.22(c). They also presented my claim of \$5,000.00 for attorney fees to defend myself against that wrongful charge. I also submitted a claim-for-damages form in person on 6/23/03. My claim was denied in a letter dated 6/19/03 from the City of Irvine. The 6/19/03 letter DID NOT EVEN ADDRESS the issue of malicious prosecution or police misconduct. The City of Irvine assigned a file number of S 139440 PC to my claim.

I am very dissatisfied because the City of Irvine never gave a reason for their denial of my claim and never indicated if any internal investigation happened in the Irvine Police Department.

Malicious prosecution by city officials is a violation of California Government Code 9149.22(c). So I filed suit against the City of Irvine for their police department's malicious prosecution, which cost me \$5,000.00 in attorney fees. Suit was filed in the Small Claims Division of the Orange County Superior Court, Newport Beach facility at 4601 Jamboree Road, Newport Beach, CA 92660-2595. The case number was 03HS01988, and the hearing was originally scheduled for Friday, 01 August 2003 at 1:30 PM in Department H10. At that hearing, the City of Irvine moved to have the case decided by a judge, rather than a commissioner, who was temporarily standing in for the judge. Since no judge was available on that day (8/1/03), the trial was continued to Friday October 3, 2003, at 1:30 PM, in Department H10, at the same court house. After that hearing, at the request of the two persons authorized to appear on behalf of the City of Irvine, the previously agreed-to date of Friday October 03, 2003 was vacated, and the trial was continued to Friday, October 31, 2003, at 1:30 PM, in Department H10, at the same court house.

But at the hearing of October 31, 2003, the presiding judge, Margaret R. Anderson, RECUSED HERSELF from the case. In addition, the ENTIRE HARBOR JUSTICE CENTER, Newport Beach facility, RECUSED THEMSELVES of this case. Case was ordered transferred to the Orange County Central Justice Center, where it would be assigned a NEW

case number.

The word RECUSE means, "To reject or challenge (a judge or juror) as disqualified to act, especially because of interest or bias." (See Random House Webster's College Dictionary, copyright 1997, page 1088).

On November 17, 2003, the Central Justice Center court notified both parties that the new case number for Laham v. City of Irvine is 03CS007196, and the hearing is scheduled for Thursday, 18 December 2003 at 8:30 AM, in Department C-54 at the Central Court. The Central Justice Center is located at 700 Civic Center Drive West, Santa Ana, CA 92701, Phone (714) 834-4676. On the day of the trial, the court moved the trial to Division C53, presided over by Commissioner Barry S. Michaelson. After I moved to have case heard by a judge, the court moved the case to Division C61, where Judge James H. Poole heard the case.

But Judge James H. Poole IGNORED key facts of my case and ruled CONTRARY to legal precedents (doctrine of "stare decisis").

Per Sheldon Appel Co. v. Albert & Oliker [254 Cal.Rptr. 336, 47 Cal.3d 863], I proved that the IPD brought the charge WITHOUT PROBABLE CAUSE and INITIATED WITH MALICE. IPD prosecuted on victim's receipt of 4 postcards containing no threats or obscene language, with NO evidence that they came from me, and on phone traps, while I was 30 MILES AWAY at work, which ONLY shows that 2 calls went from my home phone to another, not WHO the caller was. Yet Judge James H. Poole writes, "[Plaintiff's] primary basis for malic[ious prosecution] was failure of Irvine P[olice] to contact him for his side of story. = Not Malice." [Docket for Case #03CS007196.] He COMPLETELY IGNORED Puryear v. Golden Bear Insurance Company [66 Cal.App.4th 1188, 78 Cal.Rptr.2d 507], which establishes that THERE IS NO PROBABLE CAUSE WITHOUT EVIDENCE AS TO WHO DID IT. He also COMPLETELY IGNORED Baker v. Gawthorne [82 Cal.App.2d 496, 186 P.2d 981], which establishes inference of MALICE from REFUSAL TO DO RESEARCH before filing a complaint. And he COMPLETELY IGNORED the HUGE CONTRAST in the IPD's handling of Melinda Sidor's (annoying?) phone call case, versus my family's case against a violent next-door neighbor, Sean Robert Norton, which further substantiated that this case was INITIATED WITH MALICE. These two cases were CONCURRENT. Yet:

(a) Melinda Sidor was a victim of (annoying?) calls consisting of munching potato chips, a child playing with a toy, and inaudible mumbling (See D.A. evidence tape.). But we were victims of a violent next-door neighbor, Sean Robert Norton, who attempted to batter my wife and vandalized our property.

(b) The IPD, at VICTIM'S REQUEST (see IPD Report DR 01-19823), PROSECUTED me. But despite OUR REPEATED REQUESTS, the IPD refused to EVEN SPEAK to our violent next-door neighbor. (see IPD Report DR 02-06198)

(c) I, the suspect of the annoying phone call case, have NO criminal record. But our neighbor, the suspect of vandalism to our property and attempted battery, has A CRIMINAL RECORD of which the IPD is aware because they arrested him (IPD Report 99-05576). Sean Robert Norton was convicted for being under the influence of methamphetamine (Docket for Case #99HM03522).

(d) The IPD had NO evidence against me that I made any annoying phone calls to Melinda Sidor. All they had were two (2) phone traps on my home phone while I was at work 30 miles away. (See Sprint phone bill, letters from team leader and cube-mate, and lab report.) They had four (4) postcards containing no threats or obscene language (see IPD Report DR 01-19823) without ANY evidence that they came from me. But the IPD had my wife's EYEWITNESS statement that she was the victim of an attempted assault and battery, and they had photos of our kicked-in front door and a photo placed on our car threatening to steal or vandalize it.

(e) Melinda Sidor ONLY HAD TO CHANGE HER PHONE NUMBER. But (i) since we could not file a restraining order against our violent next-door neighbor who continued to harass us because we shared the only stairwell to our front and only doors, and (ii) since the IPD refused to contact him, OUT OF DURESS WE MOVED, costing us \$2,392.64 (See hotel and storage invoices.) in emergency moving costs. The IPD wanted to cover up the fact that they

never contacted our violent next-door neighbor, so they REFUSED, despite our repeated requests, to give us a proper copy of the police report (See our letters to IPD dated 9/19/02, 9/27/02, and 10/18/02, and IPD letter dated 9/25/02.), (i) for which we paid the \$15.00 processing fee, (ii) in which we were victims, and (iii) to which California Government Code 6254(f) says we are entitled. A proper copy would include the suspect's statement, which would show that the IPD at least contacted the violent next-door neighbor. Instead, all they gave us was a copy of IPD Police Report DR 02-06198 WHICH ONLY HAD OUR OWN NARRATIVE IN IT!

In any fair and legal court, I would have won my case, because I proved all points via hard evidence needed to substantiate malicious prosecution. Is this how corrupt judges get away with rendering corrupt verdicts - by ignoring the pertinent facts of a case and breaking legal precedents? Especially in Small Claims court, where there is no word-for-word record of the hearing so that the judge never goes on record, and a plaintiff cannot appeal?

Judge James H. Poole writes, "[Plaintiff] failed to prove malice - Note phone t[r]aps." [See his handwritten statement on Plaintiff's Claim form, from Docket for Case #03CS007196.] Does he say this because he wants people to believe that I cannot prove malicious prosecution just because two phone traps existed - which could be phoney? This is false because IPD never proved WHO made the calls.

The ruling in this case, Laham v. City of Irvine, sends the message to all that it is OK for a judge to rule AGAINST THE LAW by breaking legal precedents (doctrine of "stare decisis"), and for police to escape accountability for their actions. This means that any police agency can harass any innocent law-abiding citizen they do not like with absurd, unsubstantiated charges and make them spend thousands of dollars on attorney fees or go to jail and lose their jobs if they cannot afford a decent attorney.

One can rationalize, "This only happens to bad people," but it happened to me, Michael Laham, a law-abiding professional who lives in an upper middle-class neighborhood. And one can rationalize, "This only happens to a few people." We always had a lot of respect for the police because we believed that they risk their lives to protect the innocent, but our life EXPERIENCES with them have unfortunately taught us otherwise. Unless we Americans UNITE, ORGANIZE, and COLLECTIVELY FIGHT to stop this sort of police misconduct and malicious persecution, anybody in this land of the free and home of the brave could be next!

Anyone who wishes further information can contact me (Michael Laham) at e-mail michael.s.laham@boeing.com.