

Wrongful death suit filed by Bubba Gutierrez's parents is settled by city of Imperial

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A \$600,000 out-of-court settlement has been reached in the federal wrongful death lawsuit between the family of Edmund "Bubba" Gutierrez and the city of Imperial.

The case could be officially dismissed within days, but for all intents and purposes the suit was settled Tuesday in an official record of action in U.S. District Court.

The family was seeking in excess of \$1 million in damages for the alleged wrongful death, personal injury and rights violations of Gutierrez at the hands of Imperial police Officer Eric Granado and now-retired Officer Joe Garibaldi and the city of Imperial.

In essence, the suit claimed police brutality, with "unwanted and unwarranted" excessive force by Granado and Garibaldi during a traffic stop that escalated July 5, 2010, which resulted in Bubba's death.

Edmund Gutierrez Sr., Bubba's father, was contacted for comment. Rather than speak, he sent a prepared statement on behalf of himself and his wife, Lydia.

"As parents, we never imagined that the life of our beloved son, Bubba, would be taken by those sworn to protect him. The sole purpose of the initiation of this lawsuit for his wrongful death and the resolution of our claims for his wrongful death was to demonstrate to those police officers who were the instruments of his death, and to a city government complicit in that death, the full measure of the consequences for the refusal to recognize, acknowledge and address the issue of abuse of power and authority by some members of the city of Imperial law enforcement community.

"We pray that the affirmation of the city's blame and its substantial cost will encourage the residents and the officials of the city of Imperial to more closely and critically examine the conduct of those empowered by them to enforce the law," the statement continued.

From the city and the Police Department's standpoint, a settlement in the case does not constitute guilt over the allegations.

Imperial Police Chief Miguel Colon said the settlement was out of the city of Imperial's hands, that an insurance risk pool the city pays into recommended settling.

City Manager Marlene Best said in a prepared statement: "Again, the California Joint Powers Insurance Authority believed that a settlement with the family was in the best interest of their risk pool, and they reached that agreement. Although we support the CJPIA's decision, it is not an admission of liability by the city. It is important to note that both parties have agreed to this decision."

Further, Colon addressed the excessive force allegations head on.

"As far as the case itself, my guys were cleared by the DA's Office and the autopsy cleared them," Colon said. "I just want to respect the privacy rights of the family, so that's why I don't want to comment."

The lawsuit, which was filed July 5, 2011 — the one-year anniversary of Bubba's death — never went to trial in U.S. District Court, instead wending through the motion and settlement conference stages until Tuesday, when it was announced a March 11 settlement conference had been vacated by all parties after the out-of-court settlement was reached.

Papers dismissing the federal suit had yet to be filed with the court as of Friday afternoon but appear to have been signed off by federal Magistrate Judge Peter C. Lewis on March 8.

Calls to the office of the Gutierrez family's attorney, A. Daniel Bacalski Jr. of San Diego, went unanswered over the weekend. Efforts to reach a Brawley-area attorney working with the family also were unsuccessful.

The ordeal that led to Gutierrez's death began when Granado noticed Gutierrez's vehicle parked on the wrong side of the street in a residential neighborhood. Bubba reportedly tried to run and a scuffle ensued between he and Granado. Garibaldi was called in for backup.

During the stop, Gutierrez was said to have ran and broke free and ran again at least once. He was hit with a Taser stun gun twice, pepper-sprayed in the face and had multiple abrasions and cuts on his body, including marks from being hit in the legs with a police baton, according to the autopsy reports from the Imperial County Coroner's Office.

Gutierrez's death was ruled a homicide from the clinical standpoint that he died at the hands of another. But months later, after the post mortem report was completed, the Imperial County Coroner's Office would rule the manner of death as homicide and the cause of death as "agitated behavior associated with alcohol and marijuana intake needing restraint and other unknown factors." The report also concluded that an existing [heart condition](#), hypertrophic cardiomyopathy, contributed to his death.

After a nine-month investigation, Imperial County District Attorney Gilbert Otero announced there wasn't enough evidence to warrant the filing of criminal charges against Granado and Garibaldi.

Bubba's supporters were on hand to protest the DA's announcement. But even before then, Gutierrez's death saw the emergence of a new kind of civil unrest led by his friends and family members using the methods of a younger generation to keep the "Justice for Bubba" campaign top of mind. They employed the immediacy and spread of social media and the use of Bubba's image through graphic-style street and stencil art.