
	<p style="text-align: center;">What Happens When the Plaintiff Cannot Identify Which Officer Beat Him?</p> <p style="text-align: center;">By Jack Ryan</p> <p style="text-align: center;">Legal & Liability Risk Management Institute</p>	
---	--	---

In *Velazquez v. City of Hialeah et al*,ⁱ the United States Court of Appeals for the 11th Circuit addressed a case where the plaintiff, Velazquez was unable to identify which officer at the scene of his arrest had actually been the one to strike him while he was handcuffed. Due to his inability to identify which of the two officers, Bostic or Hernandez, had actually struck him, the federal trial court had granted the officers summary judgment, thereby dismissing Velazquez’ lawsuit. Velazquez filed an appeal.

In its review of the case, the United States Court of Appeals for the 11th Circuit observed that the law of that Circuit is that “an officer who is present at the scene and who fails to take reasonable steps to protect the victim of another officer’s use of excessive force, can be held liable for his nonfeasance... Therefore, an officer who is present at such a beating and fails to intervene may be held liable though he administered no blow.”

The court then turned to the undisputed facts that Velazquez had named both arresting officers in his lawsuit and both officers acknowledged that they were present at the scene of the arrest. The court determined that the lawsuit against the two officers should go forward to a jury trial. The court asserted that lawsuits involving excessive force cannot be dismissed simply because the subject cannot identify which officer was actually administering the beating. The court concluded: “Were this the law, all that police officers would have to do to use excessive force on an arrestee without fear of consequence would be to put a bag over the arrestee’s head and administer the beating in silence.”

Citations:

- i. *Velazquez v. City of Hialeah et al*, 2007 U.S. App. LEXIS 9127 (11th Cir. 2007).

Author: Jack Ryan, J.D., is a retired police captain from the Providence Police Department, Providence, Rhode Island and is admitted to the practice of law in Rhode Island and the United States Federal District Court. He is a national trainer for Public Agency Training Council (PATC) and the Co-Director of the Legal & Liability Risk Management Institute. He conducts training on Civil Liability and Risk Management for Law Enforcement Agencies and Schools throughout the United States.

Captain Ryan has been recognized by the Federal Courts as an expert in police practices and law enforcement policy and training, and has written the official policies for many State and City agencies across the United States.

You may contact Jack Ryan by calling the PATC / LLRMI office at 1-800-365-0119 or by emailing information@patc.com.