

Pr. George's Man Freed In Police Abuse Case; Arrest Led to Charges Against Two Officers

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Prince George's County prosecutors yesterday dropped most of the charges against a homeless man accused of breaking into a Chillum gas station, a case that led to indictments on police brutality charges against two county police officers who arrested him.

Hector Millan, 28, yesterday admitted to one count, a misdemeanor burglary charge, and was granted probation before judgment, leaving no conviction on his record for the Jan. 20 incident.

"He's been convicted of nothing," said Terrell N. Roberts III, Millan's attorney. Prince George's County State's Attorney Jack B. Johnson had already dropped a felony burglary charge. A charge of malicious destruction of property was dropped yesterday as part of a plea agreement.

And during a hearing in District Court in Hyattsville, Assistant State's Attorney Roland Patterson said he was also dropping resisting arrest and assault charges, because the police officers who could have testified about the allegations would probably assert their Fifth Amendment right against self-incrimination.

But defense attorneys for the two officers said their clients were prepared to testify against Millan.

On Friday, Johnson announced that two of the officers who arrested Millan, Cpl. James C. Partenza and Cpl. Mark Elie, had been indicted by a county grand jury on charges they assaulted Millan without justification. Both officers are charged with first-degree assault, second-degree assault, reckless endangerment and misconduct in office.

Johnson said that when Elie and Partenza found Millan hiding inside the gas station garage in the 5800 block of Riggs Road, Millan raised his hands to surrender. Partenza hit Millan with his baton, and Millan fell to the ground; Elie released his police dog, which attacked Millan's arms, Johnson said in a statement.

A third officer, Cpl. Joseph Diaz, ordered Elie to remove the dog, which Elie did, Johnson said. Then Elie released the dog to attack Millan again as the suspect lay on the garage floor with his arms extended. Diaz again intervened, and Elie again called the dog off, Johnson said.

Diaz reported to supervisors that he believed Partenza and Elie used force without justification. Diaz's allegations prompted an investigation by the state's attorney, which led to the indictments. The FBI and a federal grand jury are conducting a separate probe.

Johnson summoned Diaz and Millan to testify before the grand jury that indicted Elie and Partenza. Attorneys for both officers said Johnson turned away their offers to have Elie and Partenza testify before the grand jury that ultimately indicted them.

Johnson said he understood that both officers had been subpoenaed to testify against Millan in District Court. Elie's attorney, Timothy F. Maloney, said he had no knowledge of his client ever receiving a subpoena.

"Corporal Elie was prepared to testify, just as he was prepared to testify before the grand jury," Maloney said.

Partenza's attorney, William C. Brennan, said Partenza was aware he had been summoned and was waiting near the courthouse yesterday in case prosecutors called him to testify. But Brennan told the judge his client might decline to answer some questions. "We weren't going to allow Roland Patterson to interrogate him about his charges in the Millan case," Brennan said in an interview.

Brennan said he could not say whether Partenza's testimony would have backed up assertions made in the charging document Cpl. Tam Cragg swore out against Millan.

The charging paper alleges that Millan threatened to kill a gas station attendant and pushed Partenza when the officer tried to arrest him.

In a police tape of an emergency call, the attendant makes no mention of such a threat, and a private investigator working for Millan's attorney has obtained a taped statement from the attendant in which the worker says Millan never spoke to him. In an interview, Millan said he was putting his arms up to surrender when Partenza began hitting him with his baton.

Elie's attorney said Millan appeared threatening when he tried to use a steel tube to break into the cashier's booth, but this detail was not included in the charging document.

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