

Man fired while wrongfully jailed part of suit against county

Locked up 9 days — and innocent

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Originally published 03:15 p.m., May 28, 2011

Updated 05:07 p.m., May 28, 2011

A case of mistaken identity landed a Port Hueneme man in the Ventura County jail for nine days last year, despite his repeated protests to a number of officers and a judge that they had the wrong man.

Charles Velasquez, 28, was a victim of identity theft by a man who already had been convicted in Ventura County in 2009 for falsely impersonating him and sentenced to prison.

Velasquez was arrested last year on two warrants issued by Los Angeles and Santa Barbara counties for the man who had been impersonating him — Arturo Perez Gonzalez, Velasquez's ex-wife's boyfriend. Velasquez said Gonzalez has a rose and dagger tattoo and is missing his front teeth.

"I've got all my teeth," Velasquez said, and he does not have such a tattoo.

But despite his protests to everyone at the Ventura County jail that they had the wrong man, no one double-checked his identity. It wasn't until nine days after his arrest, when two detectives from Los Angeles County came to transport him to the Van Nuys jail for the warrants, that his true identity was realized. Detectives there compared Velasquez's likeness to Gonzalez's booking photo and concluded Ventura County had given them the wrong person.

By the time the mistake was cleared up, Velasquez had lost his job as a forklift driver.

Velasquez is now the lead plaintiff in a federal class action lawsuit filed in December against the county. Velasquez's lawyer, Brian Vogel, said there are as many as 10 plaintiffs whose cases are being reviewed and will be named later. The suit alleges their constitutional rights were violated and they were falsely imprisoned.

Vogel said the Ventura County jail has all the technological tools necessary to verify a person's identity.

"This is not rocket science, and they have the means to figure this out quickly and effectively," Vogel said. "Unfortunately, our jurisdiction chooses not to do so."

He said there was a "culture of indifference to true claims of innocence" in former Sheriff Bob Brooks' administration.

Authorities admit mistakes

Assistant Sheriff Gary Pentis said Vogel is "posturing" on behalf of his clients. He admitted, however, that deputies working in the jail made a mistake by not comparing Gonzalez's booking photograph with Velasquez's appearance.

Pentis said the mistake should have been caught before Velasquez was transferred to Los Angeles. He said mistakes like this happen at the jail and "we need to do everything to stop it."

Pentis said officers often are given fake names and bogus stories by those who want to avoid going to jail. Sorting out their true identities can be a difficult task, he said.

Attorney Jeffrey Held, with the Law Offices of Alan Wisotsky, which is representing the county and the sheriff's department in the case, said he "thoroughly disagrees" with Vogel's comments about an atmosphere of indifference in the jail.

For Velasquez, it began when Port Hueneme police were summoned to his home last year, where they gave him a citation for allegedly violating a restraining order, Vogel said. While they were there, police ran a computer check on Velasquez and discovered the two arrest warrants from Los Angeles and Santa Barbara counties, according to Velasquez.

He protested, saying it wasn't him who was wanted by police, but Gonzalez. Velasquez said Gonzalez, who was no stranger to the criminal justice system, had stolen his identification and impersonated him.

But Velasquez's protests went nowhere. Velasquez said he remained in custody for nine days, including Easter weekend, despite his protests to at least 10 deputies and other people in the jail, as well as a judge.

His lawsuit names as defendants the county, sheriff's department, Brooks and other unnamed county employees, including booking officers, supervisors, managers and jail commanders.

Long-standing problem

How many people are wrongfully arrested because of identity theft or because the person has the same or similar name of a criminal suspect is not known. Neither the sheriff's department nor the Public Defender's Office keeps track of the number of innocent people mistakenly held in custody.

Assistant Public Defender Howard Asher, however, said it is a long-standing problem in the sheriff's department.

"It's been a problem for years, ever since I've been practicing," said Asher, who has worked in the office for 30 years.

Pentis said he welcomes input from the Public Defender's Office on ways to improve the jail processing system.

"We are not in the business to keep people in jail who don't belong here," he said.

As part of his lawsuit, Vogel is asking a federal judge to declare the conduct unconstitutional and order the county to fix the problem. Vogel also is seeking an unspecified amount of damages. The lawsuit is scheduled for a status conference on July 18 to determine when it will go to trial.

There are 30,000 inmates booked into county jail every year and that puts a strain on the sheriff's department, according to a lawsuit response filed by the county.

"Human error is a factor as well," Held wrote in the response.

Held said fingerprints are not always in the system, saying there is a "technological gap" in the county's criminal justice system. This includes not being able to get arrest warrant information such as booking photographs and fingerprints from other counties, states or even the federal government.

Held said that in the past two years, one person has been identified by the sheriff's department as being wrongfully arrested. Velasquez, however, wasn't that person. That's because Los Angeles County never told the county jail that Velasquez was wrongfully arrested.

Held said there could be others in similar situations.

'Nobody would listen'

When he was initially arrested, Velasquez said, he told police and then sheriff's deputies in the jail's booking and classification section that he wasn't Gonzalez.

"I told at least 10 people and nobody would listen," he said.

He was booked on March 28, 2010, a Sunday. The following Tuesday, Velasquez appeared in Ventura County Superior Court, where he again explained that the court had the wrong man.

Velasquez said the judge told him to wait, and if Los Angeles County didn't pick him up in five days, they'd release him.

Velasquez never had a lawyer appointed to him while he was in jail, Vogel said.

And Velasquez said that because of Gonzalez's criminal background, he was put under a 23-hour lockdown. He also was told he'd have to take "anti-psychotic or some sort of medication," which apparently had been given to Gonzalez when he was jailed there. During a "pill call" at the jail, he said, he refused to take the medication, insisting he wasn't Gonzalez.

Velasquez said he talked to a jail doctor and nurse, who finally figured out he wasn't Gonzalez. He said he didn't have to take the medication, but neither the doctor nor the nurse talked with jail supervisors.

Held said Velasquez could have filled out a jailhouse "kite," a message on a piece of paper passed on to jail managers, stating he was wrongfully arrested.

During his first few days in jail, Velasquez said, he gave two kites to deputies and never received an answer.

When the two Los Angeles detectives came to Ventura County to transport Velasquez to Van Nuys, he told one of them that he wasn't Gonzalez.

"We'll get it all squared away when we get there," Velasquez said the detective told him.

It didn't take detectives long to realize the mistake once they saw the booking photo. They apologized and gave him a ride home, but not before giving Velasquez his and Gonzalez's fingerprint identification numbers to prevent the same thing from happening again.

Velasquez said he lost his job because he was jailed. He had been working during the height of the strawberry-picking season.

Gonzalez already had pleaded guilty to impersonating Velasquez and an unrelated crime and was serving a 24-month prison sentence, Vogel said. He was sentenced in 2009 and later released.

Gonzalez had a no-bail warrant for his arrest on drug charges in Los Angeles. In Santa Barbara County in 2009, Gonzalez used Velasquez's identity after he was charged with misdemeanor hit-and-run.

Vogel noted Santa Barbara County Superior Court Judge Clifford Anderson found Velasquez "factually innocent" in July 2010 on Gonzalez's misdemeanor hit-and-run charge.

On Nov. 3, Los Angeles Superior Court Judge C.H. Rehm declared Velasquez factually innocent on Gonzalez's drug charge. This means a wrongful arrest was made and all records of the arrest must be sealed and destroyed, according to state law.

In October, the Santa Barbara District Attorney's Office charged Gonzalez with a new felony of impersonating Velasquez during the hit-and-run. Gonzalez pleaded guilty on Dec. 10 and was sent back to prison, Vogel said.

Vogel said it is the county taxpayer who must pay for these booking mistakes, adding that arresting the wrong people and jailing them also takes up valuable bed space.

Vogel said he's confident new Sheriff Geoff Dean will fix the problem because he has been "responsive and proactive" in dealing with other shortcomings in the department, including training deputies on how to handle the mentally ill.

