

POCONO RECORD

Jury finds Barrett Twp. cops at fault for Cresco man's death

By **ANDREW SCOTT**

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After a trial this week, a jury determined that Barrett Township should pay \$100,000 in compensatory damages to the estate of Edward Rose, 65, of Cresco, who died in police custody in 2007, said attorney Sal Vito.

A federal jury has ruled that two Barrett Township police officers' lack of proper training caused the fatal heart attack of a man they had in custody for suspected drunken driving, an attorney for the victim's estate said Friday.

After a trial this week, a jury determined that Barrett Township should pay \$100,000 in compensatory damages to the estate of Edward Rose, 65, of Cresco, who died in police custody in 2007, said attorney Sal Vito.

The emotional stress Rose suffered from officers arresting him, though his blood alcohol level was below legal intoxication limit, caused his fatal heart attack, Vito said.

Lawrence Raisner and Roger Burns were Barrett Township police officers on Aug. 16, 2007, when they were heading north on Route 191 in Barrett Township and passed Rose's vehicle heading south toward Paradise Township. The officers said they noticed Rose's license plate hanging crookedly on the back of his car.

By the time the officers turned around and followed and stopped Rose, he was already in Paradise Township. Though Paradise is state police jurisdiction, it's not uncommon for Barrett police to stop motorists there, the officers said.

The officers said Rose smelled of alcohol, showed signs of intoxication and failed several field sobriety tests.

“The officers hadn’t been properly trained in this case,” Vito said. “They apparently didn’t know that, by law, you don’t administer field sobriety tests to someone who’s age 65 or older or least 50 pounds overweight. Mr. Rose was 65 and 80 pounds overweight, with a history of heart problems.

“By law, the only field sobriety test you administer to someone in either or both of those categories is the gaze-tracking test, where you move an object back and forth in front of the driver’s face and have them follow the object with their eyes,” Vito said. “And you’re supposed to administer that particular test only with the police car’s flashing lights off, which they weren’t in this case. The strobe effect of flashing lights can cause a person’s eyes to not follow the object in a steady manner, thus giving the mistaken impression of intoxication.”

Rose’s blood alcohol level was .0304, below the .08 legal intoxication limit, but the officers still arrested him, Vito said. As officers escorted the handcuffed Rose to the police car, he collapsed into unconsciousness.

“The mental stress of being arrested was the direct cause of (Rose’s) fatal (cardiac) arrhythmia,” New York pathologist Bruce Decter wrote in a 2012 report presented in court. “Acute mental stress has negative cardiovascular consequences.”

The officers started cardio-pulmonary resuscitation and used an automatic external defibrillator on Rose until an ambulance arrived and took him to Pocono Medical Center, where he was pronounced dead.

According to court papers, the jury found:

- The officers had reasonable suspicion to stop Rose, but not probable cause to arrest and detain him for suspected DUI.
- Barrett Township approved of the officers’ conduct, inadequately trained and inadequately supervised them, but had adequately screened them during the hiring process.
- Barrett Township’s approval of the officers’ conduct, plus its inadequate training and supervision, deprived Rose of his federal constitutional right to be free from unreasonable search and seizure.
- Barrett Township and the officers’ conduct substantially contributed to Rose’s

death.

- Barrett Township should be made to pay compensatory damages, but not the officers since neither officer was malicious or wanton toward Rose.

Barrett Township Police Chief Steve Williams and township supervisors referred inquiries to Harrisburg attorney Robert Hanna Jr., who was unavailable Friday.