



Sheriff's Office sued over fatal raid

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The death of a Greenfield man in a house fire started by a sheriff's SWAT team during a January raid has led to a federal civil rights lawsuit filed against the Monterey County Sheriff's Office by the man's family.

The suit, filed this week in U.S. District Court in San Jose, contends the Jan. 5 death of Rogelio Serrato was caused by excessive force when sheriff's officials approved the use of a flash-bang grenade during the military-style raid on Serrato's home.

Filed on behalf of Serrato's sons, ages 3 and 1, and his grandmother, Lisa Magdaleno, the suit seeks compensatory, exemplary and punitive damages, along with court orders to ban the use of the flash-bang devices by sheriff's deputies "until safe practices and procedures are established for their use."

Sheriff's deputies went to Serrato's home in search of suspects in a New Year's shooting outside the Mucky Duck bar in downtown Monterey in which two bar bouncers and a patron were wounded. A Greenfield man facing attempted murder charges in the shooting surrendered to San Jose police five days after the fatal raid.

Serrato family attorney Michael Haddad of Oakland filed claims in January against Monterey County and the city of Monterey, but subsequently narrowed the defendants in the lawsuit to the county, Sheriff Scott Miller and seven named deputies.

"We had a chance to investigate and to review a lot of documents, and it was apparent the raid on Mr. Serrato's house was planned and executed by

the sheriff's department," Haddad said Tuesday.

The suit says Serrato had nothing to do with the Mucky Duck shooting and was unarmed in the San Antonio Drive home when SWAT members arrived in

a military-style transport, a large armored truck and other SWAT vehicles.

About 24 SWAT team members surrounded the home while a hostage negotiation team used a "thunder-hailer" megaphone to order Serrato to surrender. They were told Serrato may have been intoxicated, emotionally disturbed or unable to care for himself, the suit says.

Without provocation, the suit contends, three deputies — Sgt. Garrett Sanders, Cmdr. Kevin Oakley and Capt. Charles Monarque — chose to use a flash-bang grenade as a scare tactic against Serrato rather than as a safety measure for a SWAT team entry into the home.

The "break and rake" team broke a front window, a deputy threw the grenade near two highly flammable couches, and within minutes black smoke and flames were shooting from the home, the suit says.

Instead of trying to help Serrato, who was emitting "anguished cries" and breaking windows, SWAT team members retreated to the transport vehicle, pointed rifles toward the home and awaited the fire department, the suit says.

Initially delayed by a SWAT vehicle in the street, the fire department took more than 30 minutes to control the fire, the suit says. By then, Serrato was dead.

The suit contends deputies knew that flash-bang grenades could start fires and that Serrato didn't pose a significant threat to the deputies.

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"The use of deadly force, including the use of the grenade ... was not justified or lawful," the suit says.

Haddad said some police agencies have quit using the devices because of their potential for misuse.

The suit asks for court orders to require the Sheriff's Office to institute training on "generally accepted and proper tactics" for using flash-bang grenades and a ban on their use until "safe practices" are established.

Haddad said, "A judge could order that relief after trial." He said he would discuss with county lawyers the possibility of taking such steps earlier in the proceedings.

A coroner's report said Serrato died of smoke inhalation complicated by methamphetamine intoxication.

Haddad said Serrato's children are being cared for by their mother and grandmother.

"They are doing their best to help them recover," Haddad said. "Their father had been a real close and active father."

A Sheriff's Office spokeswoman had no immediate comment.

Dan Mitchell, president of the Monterey County Deputy Sheriff's Association, said, "We empathize with the family; however, we think, with a full review and full disclosure, the deputies acted appropriately."

Mitchell said there are several questions that would be brought out in court, including why Serrato didn't come out of the house after being hailed for hours.

As to flash-bang grenades and training, Mitchell said, "There is constant training on all use of SWAT equipment.

"When dealing with a violent or a potentially dangerous person, unfortunately, these are tools that are potentially dangerous," he said.

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HERALD QUESTION

OF THE DAY

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