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**NYPD PREVAILS
IN ANTI-WAR PROTESTOR CASE**

***CASE IS REPRESENTATIVE OF HOW JURIES HAVE BEEN REJECTING
PLAINTIFF DEMANDS IN PROTEST CASES***

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New York, Feb. 14, 2007 – Last Friday, the New York City Police Department (NYPD) prevailed after a two-week federal civil rights trial in which an anti-war demonstrator failed to prove that he had been subjected to excessive force and malicious prosecution. The case is the latest example of juries rejecting plaintiff demands in protest cases.

Last May, for example, the City prevailed in federal court on claims brought by protestors Jessica Scherer and Alexandra Linardakis, who alleged that they were subject to false arrest, malicious prosecution and excessive force in connection with their arrests at a February 15, 2003 rally. In addition, a jury dismissed claims last December by 300 demonstrators who alleged that they were wrongfully detained in jail following various demonstrations which occurred from 1999 to 2001.

“Juries understand that the police have the delicate task of balancing First Amendment expression with the rights of the New York City community to go about its business,” said Susan Halatyn, a Senior Counsel in the Law Department’s Special Federal Litigation Division.

The most recent case, decided Friday by a federal court jury, involved several police personnel, including Police Officer Alexis Jusino, Sergeant Walter Charles, Chief Bruce Smolka, and retired Chiefs Michael Esposito and Patrick Dudgeon. The plaintiff, Jonathan Bradley, had sued for false arrest, malicious prosecution, and excessive force.

In March of 2003, Bradley was visiting New York City and decided to participate in an anti-war march, from Times Square to Washington Square Park. Although approximately 15,000 participants were expected to march, an estimated 100,000 demonstrators showed up. At Washington Square Park, the designated “dispersal area” for the march, both the organizers and the NYPD advised the demonstrators that the march had ended and they should leave the area, as thousands of protestors behind them wanted to finish marching.

Despite the orders, the plaintiff remained in the area for over 30 minutes and was eventually arrested as the police attempted to move demonstrators from the area.

At trial, Bradley claimed that he tripped or was pushed, falling to the ground. The officer who arrested the plaintiff determined that the plaintiff was engaging in civil disobedience, because, as the officer attempted to get him to his feet, the plaintiff went limp, then rigid, and refused to be cuffed. He also remained silent, some of the classic acts of civil disobedience. Bradley claimed that the arresting officer used excessive force and that he was handcuffed too tightly, though he admitted he never directly told the officer that.

Although the jury found that the plaintiff had been “falsely arrested,” it also determined on the larger points that Officer Jusino was not liable for the false arrest, because reasonable officers could disagree as to the lawfulness of the arrest. The jury also determined that the other defendants, who were charged with allowing the false arrest to occur, were not liable. Finally, the jury went on to determine that the plaintiff was not maliciously prosecuted and that no excessive force or excessive handcuffing was used.

The case was tried by members of the New York City Law Department's Special Federal Litigation Division, Dara Weiss and Elizabeth Dollin, under the supervision of Susan Halatyn. In addition, Special Fed Attorneys Liora Jacobi and Michael Gertzer also assisted, as did Paralegal Matthew Gulinello.

“We are very pleased that the jury understood that the actions of the officers were reasonable,” added Dara Weiss, a Senior Counsel in the division.

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