



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Press Release

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For Immediate Release

**CITY PREVAILS IN CASE WHERE MAN
CLAIMED HE THOUGHT PURCHASING A CAR FOR \$75
AT KENNEDY AIRPORT CONSTITUTED A NORMAL SALE**

**OFFICERS FOUND TO HAVE ACTED REASONABLY IN ARRESTING MAN ON STOLEN PROPERTY CHARGES;
CASE IS INDICATIVE OF LONG-TERM LEGAL ISSUES CITY MUST FIGHT
TO KEEP FRIVOLOUS AWARDS IN CHECK**

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New York, July 9, 2004 – The New York City Law Department has won a case involving a man who claimed that he thought purchasing a car in the parking lot at John F. Kennedy International Airport constituted a normal sale, then sued the City after his arrest on stolen property charges.

In *Boyd v. City of New York*, Anthony Boyd sued two New York Police Department (NYPD) detectives and the City following his arrest, prosecution and conviction for criminal possession of stolen property in January of 1996. The case had a long and complex history, beginning on Jan. 4, 1996, and ending last week in the U.S. District Court for the Eastern District of New York, with a complete verdict for the City and the defendant officers.

"This win capped eight years of frivolous litigation in State and Federal tribunals concerning this incident, and it was a gratifying victory against a plaintiff who attempted to use the reversal of his conviction on technical grounds as a springboard for a lucrative claim against the City," noted Corporation Counsel Michael A. Cardozo. "The City will continue to fight cases like this in the future," he added.

In January of 1996, NYPD Auto Crime Detectives received information that a car parked in Jamaica, Queens, had been reported as stolen by its owner in Nassau County. As detectives knew of some chop-shops and salvage yards in the area, they decided to set up a surveillance on the car, a black Isuzu jeep. At 4 a.m., two individuals got into the car, and the police stopped them. The driver informed them that the vehicle belonged to a "Tony" who lived across the street. The police then called upstairs and met with the plaintiff, who identified himself as "Tony," admitted that he knew the car's driver and said he owned "a car" (which he later pointed out to officers as the stolen car in question).

When asked for the car's paperwork, however, the plaintiff produced insurance cards made out in the name of the legitimate owner, which had been in the glove box when the car was stolen. According to the officers, the plaintiff then volunteered that he had previously purchased the car at John F. Kennedy International Airport parking lot for \$75 from a man who said he was leaving the country.

After Boyd came downstairs from his apartment and identified the stolen car, he was placed under arrest. He was tried and convicted of criminal possession of stolen property, and served almost two years in prison as a result. His conviction, however, was appealed and overturned based upon a trial court error that had nothing to do with the officers' conduct.

Boyd then sued the officers in Federal court under Section 1983 (the Civil Rights statute) seeking damages for false arrest and malicious prosecution. Specifically, the plaintiff claimed that the officers had already arrested him before he made the statement about buying the car for \$75; that this statement was incriminating; and that because the officers did not give him Miranda warnings before the statement was made, it would be inadmissible and the officers would lack probable cause to arrest or prosecute him.

The case took additional twists and turns. The City successfully moved in the District Court for summary judgment. The plaintiff then appealed to the U.S. Court of Appeals for the Second Circuit, which affirmed that there had been probable cause to arrest, but reversed for a jury trial on the question of whether the officers had probable cause to prosecute.

The case culminated in a three-day jury trial last week in the Eastern District of New York, handled by Assistant Corporation Counsels Jennifer Rossan and Zachary A. Cunha of the Special Federal Litigation Division, and supervised by Special Fed Senior Counsel Susan Halatyn. Summer interns James Roberts, Elizabeth Daitz and Marcey Grigsby also worked on the case.

The Law Department successfully persuaded a federal jury that the detectives had probable cause to prosecute Boyd, that they did not act with malice in providing information to the District Attorney's office concerning Boyd's arrest; and that, in fact, the detectives were not responsible for initiating the prosecution. The verdict came down on Wed., June 30, 2004.

"Two well-intentioned officers were simply trying to ensure that they had the right man and the right car," Rossan noted. "The case represents the type of complex decisions that officers must face every day," Cunha added.

The New York City Law Department is one of the oldest, largest and most dynamic law offices in the world, ranking among the top three largest law offices in New York City and the top three largest public law offices in the country. Tracing its roots back to the 1600's, the Department's 650-plus lawyers handle more than 90,000 cases and transactions each year in 17 separate legal divisions. The Corporation Counsel heads the Law Department and acts as legal counsel for the Mayor, elected officials, the City and all its agencies. The Department's attorneys represent the City on a vast array of civil litigation, legislative and legal issues and in the criminal prosecution of juveniles. Its web site can be accessed through the City government home page at www.nyc.gov or via direct link at www.nyc.gov/html/law/home.html.

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