

Settlement near in suit – drug agent shot wrong man

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The state of California is poised to pay \$995,000 to settle a federal civil-rights lawsuit filed by the family of a man who was shot and killed in San Jose by a state narcotics agent in a case of mistaken identity, attorneys in the case said Wednesday.

State Bureau of Narcotic Enforcement agent Mike Walker shot and killed Rodolfo "Rudy" Cardenas, 43, after mistaking him for a wanted fugitive after a car chase and foot chase in downtown San Jose on Feb. 17, 2004.

A jury acquitted Walker of vol-

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MICHAEL HADDAD
attorney representing shooting victim's mother

untary manslaughter charges after a criminal trial in Santa Clara County last year. Prosecutors described the agent as a reckless "cowboy" who acted rashly and shot Cardenas as he was running away.

The defense said Walker was an experienced agent and former Watsonville police officer who believed Cardenas had a gun, al-

though no weapon was found. Police later found a folding knife in Cardenas' pocket.

The killing happened after a team of state narcotics and parole agents mistook Cardenas for fugitive parolee David Gonzales during a stakeout in San Jose.

Cardenas' family filed two civil lawsuits in the case naming the state of California and Walker as

defendants; both suits are to be settled for a combined \$995,000. Retired U.S. District Judge Raul Ramirez is expected to determine how the money will be divided among Cardenas' mother, Dora Barela; his wife, Jeanette Cardenas; and his five children.

"The tragedy of the case is that Rudy Cardenas is not only the wrong guy, but he was totally unarmed and shot in the back," Michael Haddad, an Oakland attorney representing Barela, said Wednesday. "The family misses Rudy greatly, and the shooting never should have happened."

John Stein, a San Jose attorney who represented Cardenas' other relatives, was unavailable for

comment Wednesday.

Deputy Attorney General Tyler Pon said Wednesday that the state was not admitting any wrongdoing in the settlement, which he called an appropriate resolution given the agent's acquittal in the criminal trial.

"The state's position did not change from the time of the criminal case," Pon said. "The jury has already heard the evidence and determined agent Walker acted reasonably. We have no reason to believe that another jury would come to a different conclusion."

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