



County of Santa Cruz

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GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda September 18, 2001

To: Board of Supervisors

Re: Claim of Simba Kenyatta, No. 102-021

Original document and associated materials are on file at the Clerk to the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

- X 1. Reject the claim of Simba Kenyatta, No. 102-021 and refer to County Counsel.
- 2. Deny the application to file a late claim on behalf of _____ and refer to County Counsel.
- 3. Grant the application to file a late claim on behalf of _____ and refer to County Counsel.
- 4. Approve the claim of _____ in the amount of _____ and reject the balance, if any, and refer to County Counsel.
- 5. Reject the claim of _____ as insufficiently filed and refer to County Counsel.

cc: Rama Khalsa, Administrator
Health Services Agency

Mark Tracy, Sheriff-Coroner

RISK MANAGEMENT

By Janet McKinley
Janet McKinley, A R M , Risk Manager

SAMUEL TORRES, JR., COUNTY COUNSEL

By Kim Elizabeth Baskett
Kim Elizabeth Baskett, Assistant County Counsel

KENYATTA

0020

102-021



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7 Attorney for Claimant SIMBA KENYATTA

8 Claim of SIMBA KENYATTA

9
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11 SIMBA KENYATTA

12 v.

13 COUNTY OF SANTA CRUZ

CLAIM FOR PERSONAL INJURIES,
DEPRIVATION OF CIVIL RIGHTS,
FALSE ARREST/IMPRISONMENT,
NEGLIGENCE, FAILURE TO
PROVIDE MEDICAL CARE FOR
PRISONER IN CUSTODY DESPITE
KNOWLEDGE OF THE NEED FOR
MEDICAL CARE (GOVT. CODE §
845.6), AND NEGLIGENT AND
INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS

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15 To the Board of Supervisors of the County of Santa Cruz:

16 You are hereby notified that SIMBA KENYATTA, whose address is 825 N.
17 Branciforte, Santa Cruz, CA 95060 claims damages from the County of Santa Cruz ("the
18 County"), and the individual agents and/or employees of the County causing his injuries.
19 All notices or other communications with regard to this claim should be sent to Claimant's
20 attorney, Douglas C. Kane, at the following address: Douglas C. Kane, Law Offices of
21 Douglas Kane, 121 Jewell Street, Santa Cruz, CA 95060.

22 This claim is based upon personal injuries, deprivation of civil rights, false
23 arrest/imprisonment, negligence, failure to provide a detained individual medical care
24 despite knowledge of the need for medical care (Govt. Code § 845.6) and negligent and
25 intentional infliction of emotional distress sustained by Claimant on or about February 21-
26 23, 2001, in the Santa Cruz County Jail, under the following circumstances:

27 Claimant is a 48-year-old African-American male with dreadlocks. He is well known
28 in the Santa Cruz community as a political activist, and he once ran for the seat on the

13
2/8-20-01

1 Santa Cruz City Council.

0021

2 In the afternoon of February 21, 2001, Claimant was walking on Pacific Avenue in
3 downtown Santa. As is usual at that time of day, there were many pedestrians on Pacific
4 Avenue, some of whom were crossing from one side of the block to the other outside of
5 the marked crosswalks. Claimant was the only African-Americans in the vicinity. When
6 Claimant crossed Pacific Avenue he was singled out and stopped for jaywalking by Officer
7 Bill Azua of the Santa Cruz City Police Department. Officer Azua immediately demanded
8 that Claimant produce his identification.

9 After checking Claimant's identification over the radio, Officer Azua informed
10 Claimant that there was a warrant for his arrest. Apparently the County had issued this
11 warrant for failure to appear at a hearing on a charge of driving on a suspended license
12 and had failed to rescind the warrant even though the underlying charge had already been
13 resolved. Officer Azua then proceeded to handcuff Claimant and placed him under arrest.
14 He brought Claimant to his patrol car and delivered him to the Santa Cruz County Jail.
15 At no time did Officer Azua inform Claimant of why he was being arrested, other than
16 saying that there was a warrant for Claimant's arrest.

17 After arriving at the Santa Cruz County Jail, Claimant informed jail personnel that
18 he suffers from Bi-Polar Disorder, Obsessive Compulsive Disorder, Post Traumatic Stress
19 Syndrome and Chronic and Clinical Depression, and that he took a medication called
20 Neurontin to control these conditions. However, jail personnel failed to provide him with
21 this medication, and in fact refused to give him any medication at all until the second day
22 of his incarceration, when he was finally given a sedative (which quieted Claimant down
23 but did little to relieve his symptoms). This denial of his medication, combined with the
24 extraordinary stress of being incarcerated for no good reason, infinitely exacerbated
25 Claimant's condition, leaving him in a state of extreme terror, stress, and disorientation.

26 Claimant was incarcerated until February 23, 2001, at which time he was released
27 by Commissioner Stephen S. Siegel, who commented that he did not understand why
28 Claimant had been incarcerated.

1 Since his incarceration, Claimant has suffered from panic attacks, nightmares,
2 sudden uncontrollable weeping and related symptoms.

3 The incarceration of Claimant violated Claimant's rights under both the California
4 and United States constitutions not to be deprived of liberty without due process and not
5 to be denied equal protection under the law. This conduct also give rise to common law
6 claims for false arrest/imprisonment, negligence, and intentional and/or negligent infliction
7 of emotional distress. His unlawful detention caused him significant embarrassment,
8 mental anguish, and emotional distress.

9 The failure to provide Claimant with medical assistance despite the knowledge that
10 such assistance was necessary violated Claimant's rights protected by the California and
11 United States constitutions, including the right not to be deprived of his liberty without due
12 process, the right to be free from cruel and unusual punishment, and the right to equal
13 protection under the law. It also violated the provisions of California Government Code
14 section 845.6, the California Unruh Civil Rights Act, and the federal Americans With
15 Disabilities Act, as well as giving rise to common law claims for negligence and intentional
16 and/or negligent infliction of emotional distress. This failure to provide Claimant with
17 necessary medical assistance or to accommodate his disability caused Claimant
18 significant additional mental anguish and emotional distress.

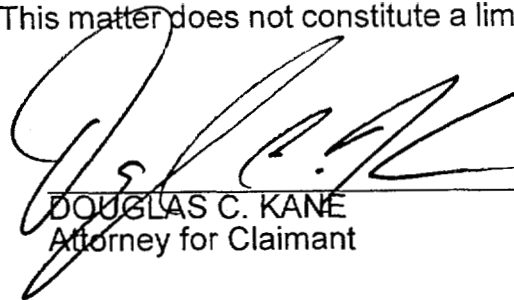
19 The names of the public employees causing Claimant's injuries under the described
20 circumstances are unknown at this time. They include the individual or individuals
21 responsible for issuing the warrant for Claimant's arrest and/or failing to rescind the
22 warrant when the underlying charges were resolved. They also include the unidentified
23 individual or individuals at the Santa Cruz County jail who refused to give Claimant the
24 medical assistance he required, as well as Sheriff Mark Tracy and other unidentified
25 individuals who negligently failed to properly train the individual or individuals at the Santa
26 Cruz County Jail who refused to give Claimant medical assistance regarding providing
27 necessary medical attention to prisoners and detainees and negligently failed to train the
28 individual or individuals responsible for issuing the warrant for Claimant's arrest and/or

1 failing to cancel the warrant when the underlying charges were resolved. These individuals
 2 were all acting within the course and scope of their employment at all times and were
 3 acting in concert, each the agent of the other and the County of Santa Cruz. They acted
 4 together under color of state law to deprive Claimant of his civil rights and to discriminate
 5 against Claimant on the basis of his race and his disability, which they failed to reasonably
 6 accommodate.

7 The injuries sustained by Claimant, as far as known, as of the date of presentation
 8 of this claim, consist of emotional distress, pain and suffering, medical expenses and
 9 other general and special damages all flowing from the wrongful conduct of the County
 10 and its agents and employees under the circumstances described. Claimant also claims
 11 entitlement to punitive damages. In addition, he seeks injunctive relief requiring the
 12 County and its law enforcement personnel to reasonably accommodate disabled
 13 individuals, and declarative relief clarifying the extent of the duty of the County and its law
 14 enforcement personnel to reasonably accommodate disabled individuals.

15 The amount claimed, as of the date of presentation of this claim, is an amount within
 16 the jurisdiction of the Superior Court. This matter does not constitute a limited civil case.

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 18 Dated: August 20, 2001



DOUGLAS C. KANE
 Attorney for Claimant

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