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DEPUTY OPPOSES DEAL IN BEATING CASE

MICHELE MORGAN BOLTON Staff writer

Rensselaer County has agreed to pay \$47,500 to a Stephentown man who accused a sheriff's deputy of brutally beating him during a 2001 traffic stop.

But road patrol officer Tony D'Agostino, who was accused by Gordon Whittle in the \$500,000 federal claim, said Wednesday he might not sign the settlement he said was reached without allowing him to hire his own lawyer.

``This is a travesty," said D'Agostino, an outspoken vice president of the Police Benevolent Association who sued his bosses in 2001, and won \$125,000 last summer, after being arrested and criminally charged for misusing a 1999 sick day. ``This puts me on the target range and tells people to take shots at me."

County Sheriff Dan Keating said the settlement decision was reached to avoid excessive defense costs. The deputy was told by a judge that he didn't need to hire his own attorney, but he planned to appeal the decision in a higher court, Keating said.

``As I understand it, the insurance carrier just settled this thing the easiest way out," Keating said. ``There is no admission of guilt."

D'Agostino's propensity for publicity may impede his ability to be a deputy sheriff, Keating added. Everyone he tickets may now think they have legal cause to sue, he said.

County lawyers would never have been fair, D'Agostino said.

He had just won his own settlement and has been publicly critical of department procedures. Motions to have the case dismissed were never even filed, he said.

D'Agostino hoped to hire lawyer Bob **Keach**, who represented him previously and also has several pending lawsuits against the county that claim excessive use of force by jail guards and illegal strip searches.

``There is no question in my mind this was about not paying Bob **Keach** to defend Tony D'Agostino rather than worrying about paying litigation costs," **Keach** said Wednesday. ``It smacks of impropriety and conflict of interest."

D'Agostino pulled Whittle over on Route 22 in Stephentown on May 3, 2001, after a 911 call stating that the man had threatened to kill himself after his doctor informed him he may lose his foot to diabetes.

What comes next is unclear, according to each of the men's stories.

Whittle said D'Agostino hit him in the head with a walkie-talkie and then beat him. D'Agostino said he used required force, which wouldn't have been necessary if the department had issued him a \$5 can of pepper spray.

The sheriff's department requires officers to provide their own mace and pay for appropriate training to use it, he said.

County attorney Bob Smith was unavailable for comment.

Whittle, who could not be reached for comment, still faces criminal charges for resisting arrest.

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