

Cook County & Illinois

JURY VERDICT REPORTER**Publication: Cook County Jury Verdict Reporter Published: 1/13/1995****CIVIL RIGHTS--DUI ARRESTEE BRAIN DAMAGED AFTER DOWNING DRUGS***(LL 14/1) Ernesto Mota v City of Oak Forest, Glen A. Runge, Michael P. Shaughnessy, Sgt. T. David Kerr, Arthur Steve Curlee 93C-7121 Tried: Nov. 14-23, 1994 (14)*

Verdict: Not Guilty v all remaining defts after Officer Curlee was directed out.

Judge: Brian B. Duff (USDC IL NE)

Pltf Atty: Michael D. Walsh (Oak Lawn) Demand: \$75,000

Deft Atty: Gregory E. Rogus and Martin A. Dolan of *Segal, McCambridge* for City of Oak Forest, Runge, Shaughnessy, Kerr, Curlee (South Town Agency for Risk Management; Scottsdale Insurance)
Offer: none;

Pltf Medl: Dr. Juelin Tang (Internist) and Richard A. Wilson, D.O. (Emergency Medicine)

Pltf Expert: James P. Choca, Ph.D., 2116 N. Sedgwick Ave., Chicago, IL (773-472-7791) (Psychologist), Dr. Juan F. Valdivia, Southeast Drug & Alcohol Abuse Center, Palos Park, IL (708-448-7519) (Neuropsychiatrist) and Dr. Mulamootil P. George, Smith-Kline Bio-Science Lab, 506 E. State Parkway, Schaumburg, IL (847-882-8050) (Toxicologist)

Deft Expert: Daniel Brown, Ph.D., P.O. Box 7084, Springfield, IL (217-793-5190) (Toxicologist) for City of Oak Forest, Runge, Shaughnessy, Kerr, Curlee

Ernesto Mota, a 29 year-old laborer, alleges that because of defts' deliberate indifference, he suffered permanent brain damage (motor skills and memory impacted) plus partial vision loss after he was arrested for various traffic offenses (including DUI) and taken to the Oak Forest Police Station without receiving immediate medical attention for a possible cocaine overdose. Mota also charges that the City of Oak Forest is liable under 42 USC Sec. 1983 for failing to adequately train its police officers, and seeks \$2 million compensatory plus \$5 million punitive damages. At 6:10 am on Sunday Dec. 15, 1991 Officer Runge found Mota near 151st and Central Avenue, asleep behind the wheel of his car, with the motor still running (Breathalyzer level was .12). When Runge's patdown search located a plastic bag in Mota's left inside jacket pocket, a struggle ensued. Mota claims he ingested an undetermined amount of cocaine when the bag burst as he attempted to swallow it before being subdued by Runge and Shaughnessy (Curlee provided backup). A second bag, containing 82% pure cocaine was also found in Mota's jacket. Mota was placed in a cell at 7:59 am, only minutes before shift commander Kerr went off duty. At 8:30 am Mota was seen asleep. However, less than one hour later, Runge heard noises and found Mota having seizures. Paramedics were called, but Mota went into cardiac arrest, necessitating CPR and transport to Palos Community Hospital where he remained comatose for several days (released Dec. 30). Mota did not testify at trial. Consequently, pursuant to motions, his status as an illegal alien and convicted felon was not brought before the jury. The police officers denied that Mota had consumed cocaine while in their presence or that he exhibited any of the outward signs of recent cocaine use. Insisted that Mota's seizures were the first indication that he needed medical attention--and that their response had been immediate. This case, when first filed, was the subject of Mike Royko's Dec. 12, 1993 Chicago Tribune column.