

# The Indiana Jury Verdict Reporter

The Most Current and Complete Summary of Indiana Jury Verdicts

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Statewide Jury Verdict Coverage

25 IJVR 8

*Unbiased and Independently Researched Jury Verdict Results*

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## Civil Jury Verdicts

Timely coverage of civil jury verdicts in Indiana including court, division, presiding judge, parties, cause number, attorneys and results.

**Malicious Prosecution - After plaintiff was pulled over for a traffic violation and found to have an outstanding warrant for possession of marijuana, the police wanted to search his vehicle; plaintiff resisted this effort, and a scuffle ensued with one officer claiming to have been injured, which led to criminal charges being filed against plaintiff over the alleged injury; the criminal case was ultimately dismissed when a video confirmed plaintiff's account that he had not injured the officer at all; plaintiff then sued the police for lying about the injury in a probable cause affidavit**

*Abbas v. City of Hobart, et al.,*

45D02-2201-CT-31

Plaintiff: Steven P. Lammers, *Mandel Rauch & Lammers, P.C.*, Carmel

Defense: Shaw R. Friedman, Laura M. Nirenberg, and Jeremy M. Noel, *Friedman & Associates*, LaPorte

Verdict: Defense verdict on liability

County: **Lake**, Superior

Judge: Calvin D. Hawkins,  
2-29-24

In the morning of 1-4-19, Devonte Abbas, then age 26, was driving near the intersection of E. 37<sup>th</sup> Avenue and North Hobart Road in the City of Hobart. Officer Richard Mayer of the Hobart Police Department observed Abbas fail to signal a lane change.

Officer Mayer pulled over Abbas at the intersection and got out of his squad car to investigate. After Abbas turned over his driver's license, Officer Mayer took it back to

his squad car and radioed in Abbas's identity.

A preliminary warrant check turned up information that Abbas had an active warrant out of Florida for possession of marijuana. It would take a short time for headquarters to verify the warrant report. In the meantime, Officer Mayer continued his investigation.

It is standard procedure in circumstances such as these for an officer not to inform a suspect of the existence of an outstanding warrant until the warrant is confirmed. Thus, upon returning Abbas's driver's license to him, Officer Mayer simply requested permission to search Abbas's car.

Abbas declined the request. Officer Mayer then informed him that a K-9 officer was on the way to perform a "sniff search." Soon thereafter backup arrived in the persons of Officers Hayes and Trajkovski. A short while later Corporal (now Sergeant) Kenneth Williams arrived with his K-9 partner, Officer "Mojo."

The officers ordered Abbas to step out of his car. Abbas resisted that order partly because he feared the officers would take the opportunity to perform what he considered an illegal search of his car. He also feared they would try to plant evidence. In an effort to guard against this possibility, Abbas began recording the encounter on his cell phone.

In addition to fearing what the officers might do if he did step out of

respective medical expenses.

The occupants of the Hernandez vehicle all filed suit against Brown and blamed him for causing the crash. Plaintiffs also presented an uninsured/underinsured motorist claim against their own insurer, Allstate Insurance.

The parties later stipulated to the dismissal of Allstate and of all the plaintiffs except for Ana Vasquez. The litigation continued solely on her claim against Brown. He admitted fault for the crash but disputed the nature and extent of Vasquez's claimed injuries.

The case was tried in a single day in Anderson. The jury returned a verdict for Vasquez and awarded her damages of \$10,000. The court entered a judgment for that amount, and it has been satisfied.

**Civil Rights - The plaintiff (a tourist of sorts during the BLM/George Floyd protests) came to downtown Fort Wayne to observe the chaos at Friemann Square – realizing the situation was unruly, the plaintiff reversed course before he ever even made it to the square – however a Fort Wayne police officer mistakenly identified him as a violent protester and the plaintiff (an innocent observer) was roughly arrested without probable cause**

*Williams v. Fort Wayne Police*, 1:22-61  
Plaintiff: Dennis H. Geisleman and Dennis R. Brown, *Geisleman & Brown*, Fort Wayne

Defense: Theodore T. Storer and Adam M. Henry, *Beers Mallery*, Fort Wayne

Verdict: \$80,000 for plaintiff

Federal: **Fort Wayne**

Judge: Holly A. Brady, 7-25-24

Lucas Williams, then age 19, of rural Hudson, IN (Steuben County)

traveled to Fort Wayne on the evening of 5-30-20 with three friends. They were “chaos” tourists of sorts. The nation was in the midst of the George Floyd/BLM protests that had turned riotous in some locations. Fort Wayne was no different.

Protesters had gathered downtown at Friemann Square. Williams (who wasn't motivated politically) had just come to see what was going on. This night it was unruly. As Williams approached the square, he appreciated it was becoming a chaotic scene and could see tear gas wafting through the air. Without ever making it to the square, Williams and his friends turned around.

At just this moment a Fort Wayne police officer, Boyce Ballinger, was working the scene. He'd been given the description of a rioter who the police were pursuing. Ballinger thought Williams was that rioter. As Williams walked from the scene, it was alleged that Ballinger violently tackled him and threw him to the pavement. He was charged with Resisting Arrest, Disorderly Conduct and Refusing an Order to leave. Williams remained in the lock-up for forty-four hours. The charges were later dropped.

In this lawsuit Williams sued the police and alleged that he'd been falsely arrested. The heart of the case was that Ballinger had unreasonably and blatantly misidentified him as a fleeing rioter. He presented separate federal and state law false arrest counts.

Williams also pursued an excessive force count against Ballinger regarding the rough arrest. Williams relied on a police practices expert, Brian Landens, Wisconsin

Dells, WI. If Williams prevailed at trial he sought an award of compensatory damages. He suffered a concussion in the incident and continues to suffer mental flashbacks.

Ballinger responded that he acted reasonably in what was a dangerous, chaotic and still unfolding situation. In that context he reasonably believed Williams was fleeing and when Williams failed to stop after being ordered to do so, he further used only reasonable force to effectuate the arrest. Williams contested this and recalled that as he was crushed against the pavement by Ballinger, Ballinger had told him (echoing the George Floyd murder), “Can you effing breathe now?”

An identified defense police practices expert was Joshua Lego. The police also raised a qualified immunity defense that was incorporated into interrogatories regarding what a reasonable police officer would have done. Ballinger for his part left the police force in 2021. He was forced to resign because of a domestic violence conviction.

The case was tried for three days in Fort Wayne. The jury found for Williams on all three counts, namely, state and federal false arrest as well as excessive force. He took \$20,000 in damages separately on each false arrest counts and \$40,000 more for excessive force. The damages totaled \$80,000.

The jury was also presented two “special” interrogatories that apparently concerned the issue of qualified immunity. The jury was asked, (1) Did Ballinger give a specific order to Williams to stop?, and (2) If Ballinger did, would a reasonable police officer believe that Williams was fleeing? The jury answered “no” to both. The court has