

Domestic-violence victim files federal lawsuit against former Clovis police officer

By Pablo Lopez - The Fresno Bee

A domestic-violence victim took an unusual step Monday by stepping out in public and suing her ex-boyfriend — former Clovis police officer Kyle Pennington — of federal civil rights violations. Besides Pennington, the suit names his parents and the Clovis and Sanger police departments, accusing them in federal court of civil conspiracy, negligence, and denying her right to due process and equal protection under the law. In her lawsuit, Desiree Martinez contends Pennington abused and tormented her for more than year while the Clovis and Sanger police departments ignored her pleas for help. Kyle's parents, Kim and Connie Pennington of Sanger, are named as defendants in the lawsuit filed in U.S. District Court in Fresno because, either through "intentional or neglect conduct," they helped conceal their son's criminal behavior, said Fresno attorney Kevin Little, who represents Martinez. Little said Kim Pennington is a Sanger police officer. By law, he had a duty to report his son's bad behavior, Little said. In the lawsuit, Martinez and Little name Clovis and Sanger police employees who allegedly violated her rights. They are seeking unspecified damages as well as a lifetime injunction that prevents Kyle Pennington and his family from contacting her. She currently has a court injunction that prevents only Kyle Pennington from contacting her for the next 10 years. Filing this type of lawsuit would have been rare in the past, said Little, a veteran civil rights lawyer. But recent federal case law gives domestic-violence victims the right to sue police agencies if they can prove the agencies violated their own policies, practices and procedures, he said. In this case, police are required to help domestic violence victims, including writing down their complaints, telling them they have a right to make a citizen's arrest, and taking them to the nearest shelter. But Martinez never received that type of help, Little said. "The allegations of this complaint point to a systemic failure and law enforcement animosity toward Ms. Martinez," Little said. The Penningtons declined to comment Monday. Sanger police Chief Silver Rodriguez could not be reached to comment. Clovis police spokeswoman Janet Stoll-Lee said, "The city of Clovis and its police department take allegations of domestic violence very seriously." Police officials, however, cannot comment due to the pending litigation, Stoll-Lee said, noting that Kyle Pennington resigned from the Clovis Police Department in June 2013. Pennington spent 14 years in the Army, including as a captain who did combat duty in Iraq and Afghanistan before joining Clovis police in 2007. He stands 5 feet 10 inches and weighs 210 pounds, court records say. Martinez is about 5 foot 5 and 140 pounds. They met in Fresno's Tower District in February 2013 and started living together the next month — first in Clovis, then in Sanger. She moved out in October 2013, but Little said Kyle Pennington abused her up until July last year, when he pleaded no contest to corporal injury to avoid a second trial. In September last year, Pennington, then 35, was sentenced in Fresno County Superior Court to three years of probation, 30 days in the Fresno County Jail and a 52-week batterer's treatment program after pleading no contest to corporal injury in which Martinez was the victim. The plea came on the heels of trials in which a jury found him guilty of two misdemeanor counts of violating a court order. At the time, Judge John Vogt ordered that Martinez's name be kept confidential. She gave up the right Monday, saying she wanted to urge other domestic violence victims to stand up for their rights. "I want them to know you are not alone," Martinez said at a news conference outside Little's downtown Fresno office. "You can find strength you didn't know you had." Martinez's lawsuit came as a surprise to Kyle Pennington's criminal lawyer, E. Marshall Hodgkins. He said Pennington pleaded no contest to a misdemeanor after a jury deadlocked on the more serious felony charges of corporal injury and dissuading Martinez from testifying against him. "She's not a credible witness," Hodgkins said, "so I don't think her lawsuit has any merit." Pennington's no-contest plea is linked to a June 4, 2013, incident in which police went to his home on Oak Avenue in Sanger and discovered Martinez wearing a torn T-shirt. She also had a mark on her left cheek and bruises on her arms, prosecutor Kelly Smith told the jury during Pennington's trial in April last year. Martinez testified that Pennington grabbed, pushed and choked her, and dragged her around the living room. During the trial, Pennington denied assaulting his ex-girlfriend, and Hodgkins described Martinez as a pathological liar who liked to get intoxicated on alcohol and prescription pills. Hodgkins also told the jury that Martinez intentionally had relationships with a Clovis police officer and a sheriff's deputy while she lived with Pennington in order to make him jealous. Pennington's only crime, Hodgkins said, was being in love with Martinez and trying to help her and her teenage daughter during the couple's stormy relationship. She was always free to leave, he said. Martinez said Monday she was ready for the criticism. She said abusers have power over their victims: "It's not as simple as 'Just leave.'" She also said, "The abuser will blame you, but you are the victim." Little said Martinez didn't get a fair shake in Pennington's criminal trial because in such proceedings the judge has to protect the rights of defendants. He

said in civil-rights trials, all the evidence will be revealed, including phone calls Martinez made to police that were ignored. Little also said that when Martinez called police to report domestic violence, a police employee would contact Pennington to let him know that Martinez had called. In one incident, Clovis police dispatched two officers to investigate Martinez's complaint against Pennington in May 2013. One of the two officers, however, was a personal friend of Pennington, Little said. The two officers then interviewed Martinez and Pennington within sight and earshot of each other and allowed them to remain together, he said. [DV.load\("//www.documentcloud.org/documents/2072115-d-martinez-complaint-filed.js", { width: 500, height: 650, sidebar: false, text: false, container: "#DV-viewer-2072115-d-martinez-complaint-filed" }\);](#) [D Martinez Complaint Filed \(PDF\)](#) [D Martinez Complaint Filed \(Text\)](#)

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In a civil rights lawsuit, Desiree Martinez and attorney Kevin Little name Clovis and Sanger police employees who they said violated her right to due process and equal protection under the law.