

BEFORE THE LOS ANGELES POLICE DEPARTMENT
BOARD OF RIGHTS
COMMANDER R.B. TAYLOR, CHAIRMAN

In the matter of:)

LOS ANGELES POLICE DEPARTMENT)
BOARD OF RIGHTS HEARING)

(In re: CLARK BAKER, #22634))

B.F. 12669

COPY

TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Tuesday, July 14, 1992

Reported by:

Corin M. Wagner,
CSR No. 9496

Job Number:
IAD3466

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BEFORE THE LOS ANGELES POLICE DEPARTMENT
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(In re: CLARK BAKER, #22634))	

TRANSCRIPT OF PROCEEDINGS, taken
at 227 North Lake Street, Los Angeles, California,
commencing at 9:40 a.m., on Tuesday, July 14, 1992,
heard before COMMANDER R.B. TAYLOR, Chairman,
reported by CORIN M. WAGNER, CSR No. 9496, a
Certified Shorthand Reporter for the State of
California.

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APPEARANCES:

For the Department:

SERGEANT MARK R. PEREZ
Department Advocate
Parker Center
150 North Los Angeles Street
Los Angeles, California 90012

For the Accused:

SERGEANT GREGORY P. DUST
Defense Representative
600 East Eighth Street
Los Angeles, California 90014

Associate Board
Members:

CAPTAIN F.X. PEGUEROS
CAPTAIN R.E. KIMBALL

1 manual. Subsection 20 specifically states that, "The
2 Department Advocate may present a closing argument. If
3 waived, the Department Advocate retains the right to close
4 the argument if the Accused makes a closing argument."

5 SERGEANT DUST: Sir, then, I'll rest with no
6 closing argument.

7 COMMANDER TAYLOR: He rests with no closing
8 argument.

9 SERGEANT PEREZ: Good. I'm resting too.

10 COMMANDER TAYLOR: Why don't you take a break then?

11 (Recess)

12 COMMANDER TAYLOR: We've reconvened at 6:45 p.m.
13 Officer Baker, rather than going through each one those
14 counts and making a finding, the Board is just going to
15 make one finding and then spend some time discussing the
16 rationale for that.

17 The Board finds you not guilty on all three
18 counts. This finding is based upon the following
19 rationale: The Board used the legal standard in
20 determining that Officer Baker was acting within the full
21 scope of his employment and, empowered with the legal
22 authority, he used necessary force in order to gain
23 compliance with the law.

24 Second, Chavez made it clear from the onset
25 that according to his own testimony, albeit the fact that

1 he attempted to mitigate his comments by saying that he
2 was only kidding when he said that he was not signing the
3 ticket and would have to be taken to jail. Baker's
4 testimony was consistent with this account of the dialogue
5 between the two.

6 Third, once the citation was rendered, Baker
7 complied with the provisions of the Department manual by
8 informing the violator of the requirements to sign the
9 citation as a promise to appear. Chavez refused to sign
10 the citation, and Baker then advised him of the
11 consequences of that decision. As Baker was reading this
12 admonition on the citation to Chavez, Chavez became
13 disinterested, pulled out a stick of gum, and turned away.
14 Baker grabbed his arm to gain his attention. Chavez began
15 to walk away. Baker applied a firm grip control hold, and
16 Chavez did not comply with the directions that he was
17 given which resulted in an escalation of force. The force
18 used was, according to the Board, consistent with the
19 Department policy.

20 Fourth, there is a conflict in the evidence
21 presented as there usually is in cases in dispute. The
22 Board found that Chavez was without any credibility. The
23 other witnesses appeared to be very credible, and most of
24 the documents in evidence presented to the Board were
25 credible albeit in conflict.

1 Fifth, it appears to the Board that this
2 matter was based upon the officer's initial poor
3 explanation of what had transpired. It also appears that
4 it is based upon a sergeant's poor initial investigation
5 including the sergeant's failure to interview percipient
6 witnesses to this case. The Board also found that the
7 complaining party was at best a liar.

8 Finally, the Board found that this occurred
9 in an environment that was ripe for this kind of activity.

10 Finally, none of this is to imply that
11 Officer Baker is a pure soul. There are some issues of
12 fact and tactics which he could no doubt benefit. Perhaps
13 humor would have been a good approach to Chavez. Perhaps
14 upon his initial statement of his intention not to sign a
15 citation, a backup should have been requested. There are
16 other issues which could be discussed, but they all reside
17 outside that scope and chartered responsibility of this
18 Board of Rights. That concludes the Board.

19 (Board adjourned at 7:00 p.m.)
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1 B.F. 12669
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5 DECISION OF THE BOARD
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7 The Boards finds that the Accused
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9 is not guilty of Counts 1, 2 or 3.
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