

The following is a slightly edited version of the statement of facts in from *Rogan v. City of Los Angeles*, 668 F. Supp. 1384 (C.D. Cal. 1987):

During 2006, Rollo Tomasi, an escapee from an Alabama state prison, started using Terry Rogan's name after he obtained Rogan's birth certificate. Tomasi obtained the birth certificate at Saginaw, Michigan, Rogan's birthplace and place of residence.

After obtaining Rogan's birth certificate, Tomasi proceeded to California. Tomasi there used Rogan's birth certificate to obtain a California driver's license and various other identification documents in Rogan's name.

Sometime during 2007, Tomasi was arrested by the Los Angeles Police Department ("LAPD") on suspicion of murder. Tomasi was using the false identification in Rogan's name at the time of his arrest. The LAPD released Tomasi for reasons presently unknown.

Approximately three months later, but still during 2007, Tomasi left Los Angeles and stopped using the identification in Rogan's name.

On or about April 20, 2008, LAPD Captain Dudley Smith caused an arrest warrant to issue in the name of Terry Rogan, charging him with two robbery-murders which occurred in Los Angeles that month. Said warrant listed Rogan's name and an alias, but did not contain Tomasi' known physical characteristics (e.g., scars, tattoos, height, weight, etc.).

On approximately May 10, 2008, another LAPD officer, Sergeant Ed Exley, caused the warrant information to be placed into the national computer arrest warrant notification system known as the National Crime Information Center ("NCIC"). Entry of said information into the NCIC system ensured that any police officer in the United States having access to the system would be made aware that a robbery-murder warrant in the name of Terry Rogan was outstanding in California. Like the warrant upon which it was based, said information set forth Rogan's name and an alias, but did not contain Tomasi' known physical characteristics. . . .

On or about October 31, 2008, Rogan came into contact with Patrolman Jack Vincennes of the Carrollton Township Police Department in Saginaw County, Michigan, during the course of a trespassing dispute. Rogan was arrested a charge of disturbing the peace. Patrolman Vincennes made an inquiry of the NCIC system. The resulting computer report reflected the existence of the California robbery-murder warrant in Rogan's name.

On or about November 1, 2008, the Carrollton police contacted LAPD about the California arrest warrant. The Carrollton police established four days later through fingerprint comparison and Rogan's lack of certain scars and tattoos that were visible on the body of the wanted suspect, Tomasi, that Rogan was not the man wanted by the LAPD. Rogan then pleaded (either guilty or *nolo contendere*, the record does not reveal which) to the charge of resisting arrest and was sentenced to "time served" of five days,

and released. Upon Rogan's initial arrest, the NCIC record regarding the California warrant was automatically removed from the NCIC system.

Later during November, 2008, LAPD Sergeant Exley caused the arrest warrant information in Rogan's name to be re-entered into the NCIC system without modifying same to reflect either the suspect's (i.e., Tomasi') known unique physical characteristics (i.e., scars, tattoos) or the duplicate name-misidentification problem. As reflected by the relevant NCIC data entry form, a NCIC computer record contains a miscellaneous field that allows for the entry of up to 121 characters of information regarding identifying physical characteristics or possible mistaken identity-duplicate name situations.

During February or March, 2008, Rogan was a passenger in an automobile which was stopped by Bay County sheriff's deputy Bud White outside of Saginaw, Michigan, for failure to use a turn signal. Deputy White ran a computer check on Rogan after he showed his identification. The California robbery-murder warrant was reported back to White in response to the computer check. As a result, Rogan was ordered out of the car at gunpoint, searched, handcuffed, and transported to the jail in Bay City, Michigan. Rogan was there handcuffed to metal bars while Deputy White made telephone calls to the Saginaw police and the LAPD in order to determine Rogan's status. Rogan was released after being held in jail for approximately two hours.

Rogan has been arrested three more times, twice at gunpoint, by police in Michigan and Texas. Each time, he was released after his true identity was confirmed. He sought the assistance of the FBI, which confirmed that the NCIC contained a murder warrant in his name, but informed Rogan that "only the originating state agency (i.e., the LAPD) could delete, amend, or correct the computer warrant entry."

Rogan has come to you for legal advice. He would like to stop being arrested for crimes he didn't commit, and, if possible, recover damages for the past arrests. What, if anything, can he do?