

# The Bakersfield Californian

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FRIDAY, MAY 6, 2016

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Christopher Silva speaks Thursday of his brother, David Sal Silva, who died in the custody of Kern County sheriff's deputies in May 2013. His mother, Mary, is in the background. HENRY A. BARRIOS / THE CALIFORNIAN



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**WRONGFUL DEATH CASE**

# HARSH WORDS

Sheriff, county attorneys go on defensive against criticism  
from Silva family a day after \$3.4 million settlement **LOCAL | 2**

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# Attorney, law enforcement officials argue findings in \$3.4 million Silva settlement

BY JASON KOTOWSKI  
The Bakersfield Californian  
jkotowski@bakersfield.com

Family members of David Sal Silva and the civil attorneys who represented them in a wrongful death lawsuit against Kern County that settled for \$3.4 million shared harsh criticism of local law enforcement Thursday as they discussed Silva's death following a confrontation with deputies and California Highway Patrol officers.



David Sal Silva

Kern County sheriff's officials and county attorneys defended the actions of law enforcement and denied wrongdoing.

Neil K. Gehlawat, of the law firm Chain Cohn Stiles, questioned the thoroughness and accuracy of investigations conducted by the Kern County Sheriff's Office and District Attorney's office in the wake of Silva's death in May 2013. He said the only valid investigation took place over the past three years as witnesses and law enforcement officers involved in the incident were deposed in preparation for a civil trial that



At left, Christopher Silva's eyes well up with tears and, at right, Mary Silva listens as attorneys discuss how her son, David Sal Silva, died while being taken into custody by Kern County Sheriff's deputies during a press conference Thursday.



HEBRY A. BARRIOS / THE CALIFORNIAN

had been scheduled to begin next week. Gehlawat, speaking at a press conference held at Chain Cohn Stiles' office, said he reached the following conclusion: "Those deputies and the officers involved in that incident killed David Silva." Attorney David Cohn said the patholo-

gist who performed the autopsy on Silva was given next to no information regarding the circumstances of his death, only that there was "no foul play" on the part of officers. And he said the results of the autopsy can't be taken as an objective finding since the coroner's office in Kern County is part of the Sheriff's Office.

## County attorney disputes allegations

Silva's brother, Christopher Silva, wept during the press conference as he listened to the attorneys speak about the case. He said Sheriff Donny Youngblood is in denial if he still believes his deputies did nothing wrong during their altercation with his brother.

Christopher Silva said he's spoken out against what he believes is wrongdoing in the Sheriff's Office for the past three years, and at times it seems no one cares. He said "people need to wake up" as to what is going on with local law enforcement.

He implied the settlement shows the county realized it was in the wrong.

"It's absurd," Assistant County Counsel Mark Nations said of Silva's statements. "That's an absolutely absurd position to take."

The settlement was a matter of balancing risk, Nations said. From the outset, he said, there was a tremendous amount of misinformation about the case, and witnesses were willing to testify to having seen things which could not possibly have happened due to what is known about the incident from a scientific standpoint.

Silva was a man in "horribly bad health," Nations said, who was high on various substances and who decided to resist officers. His heart gave out as a result, he said.

"When (attorneys and the Silva family) went down this road, they said it wasn't about money, it was about truth and justice," Nations said. "These things are always

about money. That's all they're about."

And, he added, the plaintiffs received far less than they had originally sought. Nations said at one point the Silva attorneys wanted a settlement of more than \$8 million.

## Sheriff stands by investigation

During an afternoon press conference that was streamed online, Youngblood said comments by the Silva family's attorneys, in which they essentially called him and other law enforcement liars, were "shameful" and "pathetic."

"What an attorney says on TV means absolutely nothing," Youngblood said. "It's not evidence. It's a story they can tell the public to, in my opinion, build their case."

As to allegations of a cover-up, Youngblood said he's not in the business of protecting deputies who break the law. He said when they do the wrong thing, he holds them accountable.

"But when they do the right thing, somebody has to stand up and defend them, and that's me," he said.

Youngblood said the actions of deputies that evening were within Sheriff's Office policy. But attorneys for the Silva family pointed to the deposition of sheriff's Cmdr. Brian Wheeler, who testified he was not aware of any findings or recommendations on whether the deputies' conduct was within policy.

Later, Youngblood clarified that both his investigation and the District Attorney's investigation found the officers' conduct was "within the law." And he referred to an independent FBI inquiry into the case in which it was determined there was not enough evidence to support a federal prosecution.

The sheriff said he was not in favor of settling the case, noting the findings of a

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## For the record

Thursday's Lowdown contained outdated information about the Crystal Palace's Mother's Day brunch. Here's the correct info: Buck Owens' Crystal Palace: 8:30 a.m. to 2 p.m.; adults: \$25.95, kids 11 through 13 \$12.95; kids 10 and under \$8.95; seniors \$18.95.



**Local**

# Valley achieves decades-old ozone standard

BY ANDREA CASTILLO

The Fresno Bee

Federal and local officials are celebrating as the San Joaquin Valley attained its first ozone standard — albeit one that dates back to the late 1970s and that most of the country achieved by the November 2010 deadline.

The U.S. Environmental Protection Agency announced Tuesday that the valley attained the one-hour ozone National Ambient Air Quality Standard. The finding is based on clean air data between

2012 and 2014.

EPA officials said cleaner air in the valley is the result of stringent federal and state engine and fuel standards that reduce vehicle pollution. The San Joaquin Valley Air Pollution Control District also regulates pollution from sources including power plants and refineries.

Ozone forms in heat and sunlight, combining oxides of nitrogen from fuel combustion and reactive organic gases from paint, gasoline and dairies. It damages skin and eyes, triggers heart disease,

leads to lung problems such as asthma and contributes to premature death.

Kerry Drake, regional deputy director for the EPA in San Francisco, said the achievement is significant because it means the valley's air is improving and people will be healthier because of it. However, the region also struggles with high particle pollution, known as PM 2.5, which causes similar health issues.

"Things are getting better faster than they used to," Drake said. "That doesn't mean we're out of the woods by any

stretch of the imagination. But it's just not as dire as it seemed."

Federal officials abandoned the one-hour ozone standard in 1997 when they adopted a tougher, eight-hour standard of 80 parts per billion. In 2008, they tightened that standard to 75 ppb and again last year to 70 ppb. The valley hasn't achieved any of the eight-hour standards.

Most counties in the nation are expected to achieve the newest standard by 2025. The valley and South Coast Air

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pathologist who determined Silva died of hypertensive heart disease and had methamphetamine, a muscle relaxant and alcohol in his system at time of death.

Those findings were reviewed by Dr. Frank Sheridan, chief medical examiner of San Bernardino County. He concluded the autopsy was done in a thorough manner and there was no evidence Silva's death was a result of blunt force trauma or physical restraint that caused him to be unable to breathe.

District Attorney Lisa Green reiterated Thursday that Silva's death was not a homicide. She announced in April 2014 that no criminal charges would be filed against the officers involved in the confrontation.

Green said she initiated the investigation — the sheriff hadn't asked her to — and it involved a thorough review of all the information in the case including written reports and recorded statements, plus Sheridan's review. She said she stands by the investigation, and by the pathologist's findings.

**Settlement money to be split several ways**

Of the \$3.4 million settlement, about \$2 million will be paid by the county. The state will pay \$408,000, and the county's insurance will take care of the remaining \$992,000.

Gehlawat said \$3 million will go to the Silva family members represented by Chain Cohn Stiles: Silva's four

young children, his mother and the estate of his father, which is now in the care of Christopher Silva.

David Silva's girlfriend, Tara Garlick, will receive \$220,000, and his oldest child, who lives in northern California, will get \$180,000.

Garlick was represented by Daniel Rodriguez of Rodriguez & Associates.

The events leading to Silva's death began just before midnight on May 7, 2013, after deputies responded to a report of an intoxicated man outside Kern Medical. Silva had been found sleeping across the street from the hospital.

When deputies tried to wake him, an altercation ensued where Silva fought against deputies and a police dog, sheriff's investigators said. Deputies said they struck him with batons in an effort to get him to comply with their orders, and he also suffered multiple dog bites.

Deputies handcuffed Silva, and, with the assistance of two California Highway Patrol officers, used a hobble restraint on his legs. A spit mask was placed on him, but was immediately removed after he vomited.

Deputies rolled Silva onto his side. Medical aid arrived soon afterward, but Silva was pronounced dead 49 minutes after the first deputy awakened him.

Gehlawat disputed portions of the Sheriff's Office's finding. He said deputies and the CHP officers said in their depositions that Silva never punched or kicked at them, and that they placed him in a prone position and continu-

ally pushed down on him as he tried to lift his chest off the ground.

A former medical examiner in Ventura County hired by the attorneys determined Silva asphyxiated.

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