

## Supreme Court denies case of Magnolia man who brought shotgun to crash investigation

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A Magnolia man who was put in handcuffs and placed in the back of a patrol car for carrying a gun to a car crash investigation outside his home in 2013 lost his last chance at suing Montgomery County for damages. The U.S. Supreme Court in January declined to hear a civil rights case filed against two law enforcement officers by Gary Frakes, the resident who claimed he was wrongfully detained while taking photos of the crash. Frakes had been denied relief by federal trial and appellate judges since he filed the lawsuit in 2014, almost a year to the day after the crash in question.

Frakes lives on Butera Road near Magnolia that has many sharp curves, many of which lend themselves to cause unsuspecting drivers to run off the road. The fence around his property became an unwilling target of these crashes, and Frakes would often have to pay out of pocket to fix it each time it was hit.

Fed up with the crashes and constant repairs to his fence, Frakes began taking photos each time a car crashed into the fence so he could file a claim with the driver's insurance to recuperate the cost of repairs. That's what he claims he was doing the morning of June 11, 2013 when yet another driver drove through his fence.

But this time, he came out of his home with not only a camera.

He met with an officer from the Stagecoach Police Department who was assisting in the crash investigation. The officer quickly noticed Frakes was carrying a shotgun, more importantly that it was pointed in his general direction, court documents show.

Firefighters with the Magnolia Volunteer Fire Department who were working the crash told the Stagecoach officer they felt nervous that Frakes had brought the gun, so the officer called for backup, court documents show. A Precinct 5 Constable's deputy who was nearby showed up and questioned Frakes, who was then searched, handcuffed and put in the back of the officer's car for about 20 minutes, court records show.

In his civil rights lawsuit, Frakes said the tightness of the handcuffs and heat of the interior of the squad car made him suffer anxiety, fear and anger. The lawsuit also claimed he was unlawfully arrested for what he thought was his legal right to carrying the gun on his own property.

A U.S. district judge, U.S. appellate judge and the U.S. Supreme Court thought otherwise. Frakes had other similar run-ins with law enforcement and other first responders in the past, according to a memorandum. "The law enforcement (officer) was completely within his right to secure the scene," County Attorney J D Lambright said. "Once that was done, Mr. Frakes was released. It was really that trivial of matter."

The trial court issued a summary judgment essentially throwing out the suit against the two officers in 2015, and an appellate court upheld those judgments in August 2016. About a month later, Frakes filed for a writ of certiorari with the U.S. Supreme Court, which declined to hear the case in January.

"It's disappointing there are these kinds of cases out there and we have to spend taxpayers' money fighting them," Lambright said. "We're certainly not going to ask the commissioners court just to cut somebody a check like that to go away."

Frakes' attorney Randall Kallinen was not available by press time.