

# The Legal Intelligencer

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## From 'Not Guilty' to \$400K: Attorney Wins Criminal and Civil Verdicts for Wrongfully Imprisoned Man

BY MAX MITCHELL

**I**t all came down to the decision not to waive his right to a trial by jury.

Now, Reed Foster, a 44-year-old father of three, who had been facing several years in prison over an allegedly fabricated story that he aimed a gun at a police officer, is not only a free man, but he has also won a \$400,000 civil rights award against the Philadelphia police officer who he claims falsely accused him of the crime.

According to Foster's attorney, Noah Cohen of Weir Greenblatt Pierce, his insistence on having a jury, rather than a judge, hear his criminal case was a key reason for why his fight ended up the way it did—with an acquittal in 2019 and a \$400,000 award handed down Tuesday.

And Cohen should know. The employment and civil rights attorney represented Foster not only at the civil trial, but in the criminal case as well, during Cohen's final year at the Defender Association of Philadelphia.

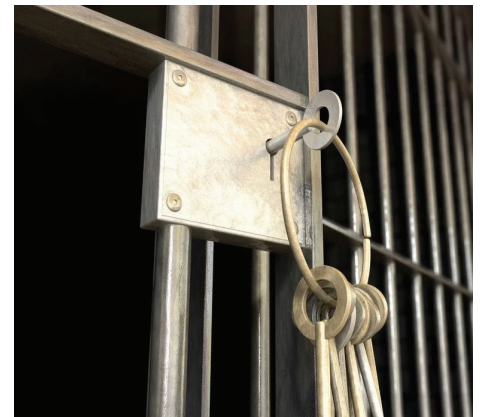
"I really appreciate it when people stand up for their rights, and that's what he did by demanding a jury," Cohen said. "He was like, 'I'm not hedging my bets. I didn't do this.' I believed him. And that's why I took this civil rights case after I left the Defenders."

The cases stem from Foster's 2018 arrest by Philadelphia Police Officer Gregory Coppola.

According to court records, Coppola had been responding to a call about a U-Haul blocking a driveway in Foster's west Philadelphia neighborhood, but accounts differ as to what happened after the U-Haul issue was resolved.

The pretrial memo in Foster's civil suit said Coppola, who had previously gotten into an argument with Foster, crossed the street over to Foster's house with his hand on his gun, and tried to goad Foster into coming down off his stairs. But, instead of engaging, Foster said, "You're not the only one with a gun. I've got a gun too," and then went back into his house.

Coppola, however, said in his pretrial memo Foster had been on the



scene with his pit bull and was making threats to Coppola about having his dog attack the officer. Coppola also said Foster told Coppola he had a gun and a taser. At one point, Coppola said in his memo, Foster took a handgun from his waistband, raised it in the air and then pointed it at Coppola before retreating back into his house.

Foster's home was eventually searched and police recovered a handgun. Foster was charged with carrying a gun without a license, possession of an instrument of a crime, carrying a firearm on a public street, terroristic threats, simple assault and reckless endangerment. The charges could have meant more than a decade in prison.

Foster was incarcerated for more than two weeks, during which he was kept naked for lengthy periods of time over fears he might attempt suicide, he claimed. After bail was reduced, he was able to leave jail.

According to Foster, Coppola's story about him having pointed a gun at the officer was fabricated, and he fought the criminal charges, Cohen said.

In Philadelphia's criminal system, typically only the most egregious cases default to a jury trial, while most cases go on what is called a "waiver" trial track, where defendants waive their right to trial in favor of having a judge hear the case. The advantages of the system are that it saves judicial resources and can lead to more favorable sentences.

But, the downside, attorneys have said, is that full acquittals are less likely if the case is heard by a judge.

Also, unless a defendant is fully vindicated in their criminal case, they are unable to bring a civil lawsuit.

Cohen said Foster insisted that his case be tried before a jury. After more than 15 months with the criminal case pending, the trial took three days and, according to the civil pretrial memo, Foster was acquitted after about an hour of deliberations.

Cohen and Foster then pivoted to bringing civil claims, suing Coppola

for malicious prosecution and false imprisonment.

### **Advantage in Credibility**

In civil court, Foster's pretrial memo called Coppola's story a "malicious" and "nonsensical" lie. The memo also said none of the police paperwork mentioned the names of the people involved in the U-Haul dispute, despite them being witnesses to the alleged incidents. Further, the memo said there was no mention of prior altercations between Foster and Coppola and, despite there being a camera nearby, none of the footage was retained.

However, according to Cohen, the crux of the civil rights case came down to the word of Foster against Coppola, who was backed by other police officers. Ultimately, the jury found Foster more credible, finding in his favor after a day and a half of trial and less than two hours of deliberations.

Cohen said voir dire was critical for ensuring the jurors would fairly consider the case, but he also said general viewpoints about alleged police misconduct may be adjusting.

"There's certainly more awareness now that police officers shouldn't be given an advantage in credibility, but that everyone should start at the same place," he said.

Jurors in the civil rights trial were made aware of Foster's acquittal in criminal court, but Cohen noted that the burden of proof for a plaintiff in

a civil action is higher than a defendant in a criminal case. So although the facts were the same, the trials were very different.

Damages were also a unique hurdle in the civil suit. According to Cohen, it's difficult to see or evaluate the kinds of injuries Foster suffered, since they are all psychological, but Foster's open display of emotion at trial was important in conveying to the jury just how deeply he was affected.

Ultimately, Cohen said the verdict has shown him that juries are willing to look beyond formulaic calculations of awarding set dollar amounts per days of incarceration.

"One thing I said to the jury was, this didn't destroy Reed Foster's life, but at the same time, when he was found not guilty of all the charges, the harm doesn't just go away. It's not over. It stays with you," Cohen said. "As we know more and more about mental health, that also impacts how juries are going to evaluate these kinds of claims."

A spokesman for the city's Law Department, which defended Coppola, did not return a message seeking comment.