

Court upholds \$645k award to family of Alameda man who died in police custody



Bob Egelko | Aug. 24, 2020 | Updated: Aug. 24, 2020



The man who died told CHP officers he was chewing gum, but he died from methamphetamine intoxication. Photo: California Highway Patrol

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Alameda man who was arrested by the California Highway Patrol, swallowed what proved to be a lethal dose of methamphetamine and was taken to jail rather than a hospital.

CHP officers said 20-year-old John Cornejo told them he was chewing gum, they had no reason to suspect it was drugs, and he declined offers of medical treatment. But the court said one officer reported seeing a plastic baggie in Cornejo's mouth, another reported that the substance Cornejo chewed and swallowed was suspected to be drugs, and the CHP found a methamphetamine pipe in the car.

Based on that evidence, a judge allowed the suit to go to a jury, which found the officers largely at fault. Jurors assessed the damages at \$827,000 and found Cornejo 22% responsible for his own death, reducing the family's damage award to \$645,000.

The state appealed the verdict, arguing that officers have no legal duty to seek medical care for an arrestee who, while suspected of drug use, shows no symptoms and declines offers of care. But the First District Court of Appeal in San Francisco said Cornejo's need for such care, and officers' obligation to provide it, were questions properly submitted to the jury under the circumstances of this case.

"Once in custody, an arrestee is vulnerable, dependent, subject to the control of the officer and unable to attend to his or her own medical needs," Presiding Justice J. Anthony Kline said in a 3-0 ruling Friday. He noted that Cornejo, in order to request or consent to medical help, would have had to admit illegal drug use.

Michael Bracamontes, a lawyer for Cornejo's parents, said the ruling "is important because it clearly states that police have a duty to provide medical care for arrestees when officers believe medical care is required."

The CHP stopped Cornejo's car, driving with fog lights but without headlights and carrying three passengers, on an Oakland street during predawn hours in March 2015. Officers said he had no driver's license. As they started to pat him down, they said, he put his right hand in front of his mouth and started chewing something, which he told them was gum. They said they told him to spit it out, and instead he swallowed it and tried to run away.

Officers arrested Cornejo and took him to the nearby Glenn Dyer Detention Facility, where the deputy who booked him said he appeared to be under the influence of drugs. Another deputy said he spoke with Cornejo four times that morning and told him medical help was available, at the jail or a hospital, but was turned down each time.

Shortly afterward, he was found on the floor of a holding cell, shaking and foaming at the mouth. Cornejo died of methamphetamine intoxication in a hospital the next day. A physician who testified for his parents said that if Cornejo had been taken to the hospital after his arrest, he probably would have survived.

Bob Egelko is a San Francisco Chronicle staff writer. Email: begeko@sfnchronicle.com Twitter: [@BobEgelko](https://twitter.com/BobEgelko)