

## MALICIOUS PROSECUTION SUIT CAN PROCEED

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A federal judge has refused, for now, to dismiss a malicious prosecution lawsuit by a Roosevelt man who claims Nassau County police conspired to arrest him in 2004 for a crime he did not commit, and to cover up their actions by lying to a grand jury and falsifying documents.

Judge Joseph Bianco, sitting in U.S. District Court in Central Islip, ruled there were enough grounds for the lawsuit by Darryl Coggins to proceed, but held out the possibility it could be dismissed at a later date.

The judge, in a ruling handed down Monday, said the motion to dismiss the lawsuit was premature because pretrial discovery in the case was continuing, and depositions of the two arresting officers had yet to be taken.

Coggins, now 32, was arrest-

ed Oct. 9, 2004, after a traffic stop in Floral Park and later indicted on a charge of weapons possession, but District Attorney Kathleen Rice dismissed the charge in August 2005 after a Floral Park police officer who was at the scene of the arrest contradicted the version given by the two Nassau officers.

One of the arresting officers, Craig Buonora, pleaded guilty to perjury in 2005, but remained on the force. The Nassau County Police Department did not return a telephone call and email yesterday about the status of the second officer, James Vara.

Frederick K. Brewington, a civil attorney representing Coggins, filed an \$80 million lawsuit in 2007 against the county, the two officers and two police supervisors. In the last court action, the county and other defendants argued that a 2012 U.S. Supreme Court case, *Rehberg v. Paulk*, made clear that police officers have absolute immunity

from prosecution for any testimony they give to a grand jury.

But the suit asserted "a broader conspiracy and series of furthering acts, including the falsification and/or withholding of documents, evidence, and testimony related to Coggins' arrest and prosecution," the judge wrote.

The officers, as alleged by Coggins, "did more than conspire to and commit perjury before the grand jury to further the grand jury prosecution," the judge wrote.

"Their wrongful conduct allegedly began from the moment Vara improperly stopped, detained, assaulted and chased Coggins," the judge said.

If Coggins' allegations are true, the judge said, they "plausibly suggest that the officers acted in their own personal interest — such as to avoid disciplinary action for their alleged improper conduct — and not in the interest of the NCPD."