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Teen's family wins \$10 million Taser verdict

By Gary L. Wright and Cleve R. Wootson Jr. / McClatchy Newspapers (MCT)

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CHARLOTTE, N.C. — Taser International must pay \$10 million to the family of a Charlotte teenager who died in 2008 after being shocked by a police officer — the biggest jury award ever against the company.

The lawyers for Darryl Turner's parents said Wednesday the federal jury found that Taser International failed to warn that discharging its Taser into the chest of a suspect near the heart poses a substantial risk of cardiac arrest. The company's animal studies, they said, demonstrated the risk.

John Burton, lead counsel for Turner's parents, Devoid Turner and Tammy Lou Fontenot, said Taser International has been irresponsible in representing the safety of its products.

"Hopefully, this verdict will sound the alarm to police officers around the world that firing these weapons into the chests of people should be avoided," said Burton, whose law offices are in Pasadena, Calif. "No other family should have to endure the tragedy that the Turner and Fontenot families have experienced."

Taser International sought to convince the jury that Turner, 17, had a medical condition that can lead to sudden cardiac arrest in young adults. The company's lawyers also presented evidence about a U.S. Justice Department study, released in May, which said current research does not support a substantially increased risk of cardiac arrhythmia even if the Taser darts strike the front of the chest.

The company's lawyers intend to appeal the verdict.

Darryl Turner died in March 2008 after being shocked with a Taser by Charlotte-Mecklenburg Police Officer Jerry Dawson Jr. at a Food Lion grocery store in north Charlotte.

Turner, who worked at the store, died from cardiac arrest. The autopsy showed the teenager's heart was pumping so fast and chaotically from the Taser shot and stress from the confrontation that it stopped pumping blood properly. The autopsy found no pre-existing heart problems.

Dawson was not charged with any crime. Prosecutors said the officer was justified in using the Taser during the confrontation with Turner, who was found with three small bags of marijuana in his socks after the incident.

Dawson was suspended for five days without pay and required to undergo additional training. Police said Dawson had violated policy when he shocked Turner with the Taser gun for about 37 seconds. Dawson held the trigger until Turner fell to the floor, according to police.

The city of Charlotte paid \$625,000 to Turner's family in 2009, though the city denied wrongdoing. It was the largest police-related claim the city had paid out in nearly a decade.

City Attorney Mac McCarley told The Charlotte Observer Wednesday that the city will continue to use Tasers.

"It is still a very effective, nonlethal force to control a situation," McCarley said. After Turner's death, Charlotte-Mecklenburg police mandated additional training for all officers on the proper use of Tasers and other electronic control devices, said spokesman Rob Tufano. The training "emphasized that repeated and prolonged deployment and exposure of the device is a strict violation of department policy," Tufano said. Police also trained personnel to look for other areas of the body to target with Tasers, such as the lower abdomen and upper leg.

The use of Tasers by Charlotte-Mecklenburg police has decreased since 2007, when police shocked people with the devices nearly 140 times. In 2008, that number had dropped to about 120 and in 2009, the latest year for which figures are available, police deployed Tasers fewer than 80 times. The Stallings (N.C.) Police Department in January abandoned the use of Tasers to reduce its liability risk.

Taser International, in a statement on its website about Tuesday's verdict, said there's been only one other adverse jury verdict against the company. That was for more than \$7 million in 2008. Taser International appealed, and the verdict was reduced to about \$200,000, the statement said.

"This was a sad and tragic incident, and our hearts go out to Mr. Turner's family," Doug Klint, Taser International's president and general counsel, said in a statement. "We can certainly understand how the jury felt deep compassion for Mr. Turner's family, and how this compassion may have overwhelmed the scientific evidence presented in this case. However, given the important nature of this case and the exclusion of key evidence that occurred, Taser International intends to appeal this verdict."

Taser International said U.S. District Judge Bob Conrad didn't allow the jury to hear evidence that Darryl Turner had three baggies of marijuana in his sock during the incident. The company said a screen for marijuana and other drugs was not performed at the autopsy or before the lab destroyed the teenager's blood evidence.

Taser International said the judge also did not instruct the jury on contributory negligence. Under North Carolina law, the company said, if plaintiffs act in a negligent manner that contributes to their damages, they are barred from recovering damages from a third party.

The statement said the company's lawyers believe Turner's behavior at the grocery store was negligent and "necessitated the use of force by police." Police were called to the store where Turner worked after the store manager had asked him to leave and he refused, according to court documents.

Store surveillance video showed Turner at the customer service desk, knocking over a display and throwing an umbrella. He then moved closer to the store manager and employee, at one point raising his arm and pointing at the manager. Later, the soundless video shows Officer Dawson entering the store with

a Taser in his hand. Turner took a step toward the officer, and police say that's when Dawson fired the Taser. Turner continued to walk past the officer with the Taser probes in his chest.

Taser International said its insurance will pay about \$6 million of the award if the company is not successful on its appeal.

Charlotte attorney Ken Harris, who represents Turner's parents, said: "This has been a long and difficult journey for the family. We have consistently stated that no judgment would be sufficient to compensate the family relative to Darryl's loss."

Harris called the litigation "a tremendous team effort on behalf of a very deserving family." "The results speak for themselves," he said. "And we are very happy with this benchmark result and the impact that it may have ... concerning the use of the Taser."

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