

TEMECULA: Family sues after bail agents target wrong house

Sarah Burge

July 2, 2014 at 8:48 am

Local News, News



*Anthony and Lisa Fuehrer of Temecula sit in their home, where they say a bail bondsman and his partner **jumped a locked gate** in their side yard and **kicked in a garage door, terrifying their teen children** last year. The bail bondsman, who was looking for a defendant who had skipped bail, **had the wrong house**, and the couple has filed a **lawsuit**.*

Three Temecula teens got the scare of their young lives one morning when a pair of armed bail agents came pounding on their door in search of a man who skipped a

court date.

Home alone and with their imaginations running wild about the unidentified men's intentions, the **teens shut themselves in a closet** and tearfully called their parents at work, then 911, **as the agents kicked in a side door.**

Trouble was, the agents had the wrong house. And the man they were looking for? Wasn't there. Never had been.

"When my son called me I felt totally helpless," the children's father, Anthony Fuehrer, said during a recent interview at the family's home in the Harveston neighborhood. "I was afraid these men may have been kidnappers or were attempting a home invasion."

The agents, Fausto Atilano and Michael Tupa, told deputies they went to the Emery Drive home June 2013 in search of a client charged in a domestic violence case. They were **wearing tactical vests** with lettering that read **"agent"** and driving an unmarked black Crown Victoria, according to a Riverside County Sheriff's Department report.

Atilano, the **owner of Fausto's Bail Bonds**, said he had **good reason to believe his client was there.** He said a **GPS tracker** and an **anonymous tip** had pointed him to the **house.**

"No one's perfect," Atilano said. "Especially when you're chasing someone down."

Atilano said everything he does is **within his rights as a bail agent** and that it's his duty to guarantee the appearance of his clients in court.

The Riverside County **District Attorney's Office declined to file charges** in the case, but the Fuehrers have **sued the bail bonds company.** They said they want to hold Atilano accountable for what they describe as **reckless behavior.**

"People need to know what's going on," Lisa Fuehrer said. "There was a lot of potential for things to go horribly wrong."

“We’re not doing this for any other reason than to bring attention to this so that it doesn’t happen to any other family,” she added.

PRIOR INCIDENTS

The incident at the Fuehrers’ house wasn’t Atilano’s first tangle with the Sheriff’s Department, nor would it be his last.

In 2011, Atilano and an employee were investigated after the adult daughter of Wildomar Mayor Marsha Swanson was shocked with a stun gun and pepper-sprayed in a confrontation outside her home. No criminal charges were filed.

Atilano sued Swanson’s relatives, including her 86-year-old mother who owned the house, last year. Atilano alleged the family and their pit bull attacked and injured him while he was trying to apprehend one of his clients, a friend of Swanson’s grandson. He said he recently prevailed in the suit, declining to disclose the sum of the settlement. Swanson said she believes it was \$10,000.

Last year, on Oct. 23, a woman called the police after Atilano and another armed bail agent kicked in the door of her apartment on Solana Way in Temecula. She was home alone with her baby and had ignored their demands to open up. Atilano and bail agent Vincent Cusumano were searching for her estranged husband who had skipped court, according to the police report.

The woman had called the police a few weeks earlier after a previous visit Atilano made to her home. She said he first offered money, then threatened her when she told him she hadn’t seen her husband for months and didn’t know where he was, the report says.

Deputies later discovered the bail agents had muscled their way, guns drawn, into the home of another relative earlier in the day Oct. 23 in a rural area off East Benton Road near Temecula, the police report says. The residents said they didn’t interfere because they thought the men were police officers and they claimed they had a search warrant, the report states. The bail agents left behind a “wanted” flier they

had made with the man's photo, Atilano's phone number and an image of a Sheriff's Department patch on it, the police report says.

The case was referred to the state Attorney General's Office because of a conflict of interest in the Riverside County District Attorney's Office. Nicholas Pacilio, a state Department of Justice Spokesman, said prosecutors received the case May 1, adding it is under investigation and no decision has been made whether to file charges.

He and John Hall, a spokesman for the district attorney, both declined to disclose details of the conflict. But Cusumano has family ties to the District Attorney's Office. His stepbrother, Jason Stone, is a deputy district attorney. Riverside County Supervisor Jeff Stone is Jason Stone's father and Cusumano's stepfather.

Sheriff's officials said the department doesn't track problems associated with specific bail agents or their employees.

"Any allegations of criminal wrongdoing by individual bail agents or bounty hunters are handled on a case-by-case basis," Lt. Lisa McConnell, a sheriff's spokeswoman, said in a written statement.

'WE NEED THESE GUYS'

The Fuehrers said they were stunned that the District Attorney's Office declined to file charges against Atilano and Tupa in their case.

"That they got off scot-free was just crazy," Lisa Fuehrer said. "They did everything wrong. I still can't wrap my head around it."

Alex Simpson, an adjunct professor at California Western School of Law in San Diego, said that while the courts historically have said bail agents can use forceful means to guarantee the appearance of their clients in court, breaking down doors is usually considered excessive.

Though trespassing and the like could be punished criminally, he said it might be

difficult for a prosecutor to show criminal intent on the part of the bail agents.

“Sometimes, obviously, bondsmen take their jobs a little too seriously,” he said.

Think: **Dog the Bounty Hunter**, of reality television fame.

Simpson said the **potential for abuse is great** because the bail industry caters to a marginalized community. Not only do bail agents charge high rates for their services, Simpson said, but if they step over the line, their clients might be unable to do much about it.

“Most of the time, if you’re in need of a bail bondsman, you’re not in a situation to really contemplate going through a civil lawsuit,” Simpson said.

Simpson said the **industry is seen as a “necessary evil”** because the **system depends on allowing people to bail out of jail** and the **courts don’t have the manpower to guarantee a defendant’s appearance.**

“It’s kind of like a dirty little secret,” Simpson said. “**We kind of need these guys.**”

‘COMPLETELY INNOCENT’

Lisa Fuehrer, a teacher, and her husband, a painting contractor, said they are unaccustomed to knocks at their door by armed men. They said their only run-ins with the law have been the odd speeding ticket.

“What happened was so out of left field. Our family, our children were completely innocent victims,” Lisa Fuehrer said.

The Fuehrers’ son, daughter and her friend were on summer break and had slept in the day the agents came pounding on the door around 9:15 a.m. The pounding continued for many minutes, and the teens heard a man yelling for them to open up or they would force their way inside.

The Fuehrers’ 13-year-old son was so scared that he retrieved his father’s handgun,

but the gun had a lock on it that the boy was unable to remove, police said.

Atilano and Tupa later told deputies they knocked on the door and announced “bail agent” but neither the teens inside nor the neighbors reported hearing those words, the police report said. With no one answering the door, Atilano scaled the backyard fence and, joined by Tupa, kicked in the side door to the garage. Atilano told deputies they retreated when he saw that the car he believed his client to be driving was not in the garage, the report said.

Atilano and Tupa gave conflicting accounts of what led them to the house, according to sheriff’s officials. Atilano initially told deputies they received an anonymous tip. A few days later, Atilano admitted placing a GPS tracking device on the car belonging to his client’s wife, the report said. He said the GPS device led him to the house. The wife later told an investigator said she has a relative she visits who lives near Emery Drive.

California law prohibits the use of electronic devices to track people without their consent, though there are exceptions for use by law enforcement officers.

Atilano said a written agreement with the client gave him permission to use a GPS tracker. But when sheriff’s investigators reviewed the paperwork Atilano provided, they found no mention of such a device, according to the police report.

Though no charges were ultimately filed, the Sheriff’s Department investigated Atilano and Tupa for a slew of possible crimes in connection with the incident, including trespassing, vandalism, illegal use of a tracking device and violating laws governing bail recovery agents.

BAD APPLES?

Atilano said the problems he has had with police stem from their failure to understand the legal rights of bail agents.

“The sheriff himself had me go teach,” Atilano said, explaining that, after his troubles

in Temecula, Sheriff Stan Sniff invited him to a class for deputies.

Sniff said in an email that Atilano and bail bond industry representatives met with him last year with suggestions on legal training materials. Sniff said he felt that bail agents themselves, as well as his own staff, needed more training on the law as it relates to bail recovery agents.

“Mr. Atilano,” Sniff wrote, “was part of a pilot training class in concert with our own trainers.”

“Generally,” Sniff wrote, “we have noted that the Sheriff’s Department has some instances of confusion at the scene of bail/fugitive recovery incidents across the county over the last few years – they are few in number, but caused us concern.”

Sniff said a refined version of the training class is being offered to deputies and that the department will continue to host meetings for members of the bail industry to discuss concerns.

Rob Dick, who has worked as a bounty hunter for more than 20 years and has a Sacramento-based business teaching classes on the subject, agreed that police need more training about the powers of bail agents. But if agents overstep their bounds, they need to be held accountable, he said.

Dick said he believes most bounty hunters behave responsibly and that the “bad apples” are the minority.

He said he was unfamiliar with the allegations against Fausto’s Bail Bonds.

“If they’re doing something wrong, hopefully they’ll be prosecuted and they won’t be in the industry anymore,” he said.

He said rule No. 1 for bail agents is that they can’t impersonate police officers.

Though bounty hunters may break down a door, if necessary, to catch a suspected felon, he said there’s usually a better way. He has kicked in a door fewer than 10

times in more than 20 years of bounty hunting – and it was always the right door. **If there’s any doubt whether a fugitive is inside, the agent should wait and do more investigation,** he said.

“This is a 100 percent game. If you go out and kick the wrong door, then your career is probably over,” Dick said. **“That’s how serious it is.”**

Staff writer Stephanie Schulte contributed to this report.

Contact the writer: 951-368-9694 or sburge@pe.com

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