



# Cheyenne Police Department

415 W. 18<sup>th</sup> Street  
Cheyenne, Wyoming 82001  
<http://www.cheyennepd.org>



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**For Immediate Release**

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## **Federal Judge Rules in Favor of Cheyenne Police Officers in Civil Rights Lawsuit**

CHEYENNE, Wy — A federal judge has exonerated three Cheyenne Police Officers of wrongdoing after determining there was no constitutional violation in a civil rights lawsuit brought by Michael A. Sena, of Cheyenne.

On Tuesday, March 8, Federal District Judge Scott W. Skavdahl granted both the City of Cheyenne and the individual officers' motions for summary judgment on all claims. According to the order, Sena failed to show any clear constitutional violation.

“The judgment confirms that the officer’s actions in the arrest of Sena were constitutionally sound, and that Sena’s claims were without merit,” said Chief Mark Francisco. “Further, the judgment confirms the department’s training and policies are in line with state statute.”

### ***Lawsuit background and findings:***

On October 30, 2019, the officers arrested Sena on suspicion of driving under the influence of alcohol after he crashed his vehicle and exhibited other signs of impairment. Following the arrest, he was transported to Cheyenne Regional Medical Center.

Sena claimed Fourth Amendment violations, stating that the officers used an invalid search warrant to take him to the hospital against his will and that he refused to take a blood test.

Judge Skavdahl’s order said that the totality of the circumstances, including the portable breathalyzer result, the failed nystagmus test, the slurred speech, the odor of alcohol, the poor balance, and Sena’s own admission to drinking alcohol, all supported an independent warrant for a blood draw.

During the initial judicial case, a municipal court judge ordered the resulting blood draw be suppressed as evidence in Sena’s DUI case. The judge believed that the officer failed to share “all the pertinent facts” and dismissed the DUI charge against Sena for insufficient evidence.

However, the federal court disagreed with the judgment, “contrary to the municipal judge’s finding the undisputed facts demonstrate... defendants properly sought and legally obtained a blood draw warrant” and did not violate Sena’s Fourth Amendment right.



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Video recordings and transcripts revealed that the officer's statement was consistent with Sena's failure to make a definitive choice. Skavdahl's order said that even statements which appeared to give consent were followed by confusing conversation. "In his inebriated state, he danced around the question being asked and the officer was justified in seeking a warrant to confirm the blood draw."

Further, the order validates the officer's representation of the facts "because probable cause existed for a warrant regardless."

Sena also claimed that he was physically assaulted by an officer in an effort to take the blood sample. He said that the officer's statement, "you know you're going to end up in the hospital, right?" was excessive force under the Fourth Amendment. The officer also stated he would perform face-down stabilization on Sena because he was moving around during the blood draw. The officer stated this verbally and never actually performed the stabilization.

Skavdahl's order said that when read in context, the officer's statement about the hospital did not appear to threaten violence – it referenced going to the hospital for a compulsory blood draw since Sena would not give a straight answer to the officers about his breath test. "This comment does not seem to rise to the level of threatening language. Similarly, the officer's threat to perform facedown stabilization, absent any accompanying physical act, is not excessive force."

Sena also asserted his Fourteenth Amendment right to due process was violated after he was treated differently based on his Hispanic race and his father's criminal history. The court ruled that Sena did not produce any evidence of discriminatory intent or that others were treated differently.

Because the officers were found to have not violated Sena's constitutional rights, the allegation that the officers' actions were caused by inadequate training by CPD and therefore the City of Cheyenne, also does not hold up, the order said.