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Tape set him free – to sue city for 15M

By MIKE CLAFFEY
DAILY NEWS STAFF WRITER

A Brooklyn man who was jailed for six months while the district attorney's office allegedly sat on a videotape that eventually cleared him filed a $15 million civil suit in federal court yesterday.

Melvin Elias said he stewed in jail, separated from his wife and young son, as the district attorney's office squeezed him for a guilty plea.

"I refused to admit to something I didn't do," said Elias, who served three years for an assault conviction in the early 1990s.

Elias, 33, was arrested in June 2000 and indicted in the attempted robbery of a McDonald's on Sheepshead Bay Road.

He was jailed on Rikers Island through last December on $15,000 bail until the district attorney's office finally turned over the surveillance tape, according to papers filed in Brooklyn Federal Court.

The lawsuit seeks damages for wrongful arrest and prosecution and names the city and District Attorney Charles Hynes as defendants.

"I have never heard of a case like this, in which the guy is so clearly not the guy and the case continued to go forward," said Elias' lawyer, Rick Ostrove.

A spokesman for Hynes said the office would not comment on pending litigation.

The charges were dismissed at a hearing in March at which Assistant District Attorney Sharlene Browne-Lee acknowledged that the person caught on tape was not Elias.

Supreme Court Justice Betsy Barros dressed down the prosecutor.

"I hope that the prosecution learns something from this as well," she said. "That that was a surveillance tape that should have been obtained forthwith."

Elias said yesterday that he had "worked so hard to turn my life around, but all of that — my family and my job — was stripped from me."

At the time of his arrest, he was a maintenance man at another Brooklyn McDonald's. He's now unemployed and living with his in-laws in Bensonhurst, Brooklyn.

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