

DENVER AND THE WEST

Gilpin officials face trial in bias suit

By Jeffrey A. Roberts
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A federal judge has ruled that Gilpin County officials can be sued as individuals in a case alleging that the sheriff, three deputies and a former sheriff repeatedly failed to investigate a black man's complaints of racial harassment.

In the lawsuit he filed against the county in 1994, Roy Smith claimed that

harassment forced him to leave his Russell Gulch home above Central City and Black Hawk the previous year.

The 50-year-old gold miner said the Gilpin County sheriff's department did little or nothing after he complained at various times of being attacked by dogs, shot at, beaten with a rake and tortured while hung upside-down.

"This is the most appalling and repre-

hensible record I've ever seen," U.S. District Judge Wiley Y. Daniel said during a hearing in Denver last week. "It's clear to this court that (Smith) wasn't treated in a manner consistent with his constitutional rights."

Smith also sued a neighbor, Robert Berube, who he contends was responsible for some of the attacks, including a 1992 hit-and-run with a Toyota 4-Run-

ner.

Berube adamantly denied the allegation in a 1995 interview with The Denver Post, saying, "I have no prejudice in my body."

However, his lawyer announced in court Friday that a settlement between Berube and Smith, involving an undis-

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Officials didn't stop harassment.

Gilpin officials not immune in bias suit, judge rules

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closed amount of money, is pending.

Jim Powers, Berube's lawyer, couldn't be reached for comment on the settlement. And lawyers for Smith said they couldn't discuss settlement details.

However, Smith's lawyers said they are pleased with Daniel's decision to deny immunity from the civil suit to Gilpin Sheriff Bruce Hartman, former Sheriff Rosetta Anderle, Undersheriff John Bayne, Sgt. Kent Edlund and Deputy Mike LaCosse.

The case is set for a jury trial

April 14.

"The court recognized that, from the evidence produced to date, this is an extreme case and it's time for trial," said Denver lawyer John Holland, who represents Smith.

"The evidence is that Gilpin County officials repeatedly ignored and refused to investigate evidence of racial hate and other crimes against Mr. Smith, which resulted in his being forced out of Gilpin County."

The 1990 Census said that the county had 13 black residents out of a total population of 3,070 in that year.

The county's population has

grown by several hundred since then, largely because of the introduction of legalized gambling.

Rick Fendel, a lawyer for the county, said he may appeal Daniel's ruling to the 10th Circuit Court of Appeals before the trial begins. He acknowledged that Daniel's remarks in court seem to indicate the judge is more inclined to believe Smith's story than that of county officials.

"We clearly have contrasting approaches to the case," Fendel said. "And (Daniel) was clearly more in tune with their approach than with ours."

Daniel said he was particularly

appalled that Smith had been referred to as "Nigger Roy" on a computerized sheriff's department complaint form. But Fendel argued that, of the defendants, only Anderle has admitted using the term to identify Smith.

Anderle told The Post in a 1995 interview that the reference to "Nigger Roy" wasn't meant to be offensive: "That's just what everybody called him," she said. "I used it as a nickname, just like my (nickname) is Weezie."

"Objectionable or offensive or not, he was known that way in the community," Fendel said in court Friday. He said that some wit-

nesses in the case claim Smith introduced himself that way to them.

But Holland said other witnesses have sworn that Smith never introduced himself that way and that Smith was offended when people used those words to identify him.

Judge Daniel said the fact that the words weren't removed from the department's computer, after Smith made it known he was offended, "speaks volumes about how the sheriff's department viewed Mr. Smith. . . It suggests to me that the officers had some racial animus directed at Mr. Smith."