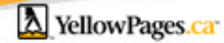


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Latest News

## Bolyantu family files \$1M lawsuit

Customs called negligent in death

**Doug Schmidt**  
Windsor Star

Thursday, May 26, 2005

Canada Customs and the federal government are being sued for more than \$1 million in punitive and other damages by murder victim Brian Bolyantu's family, which accuses authorities of negligence in allowing a deported criminal to re-enter the country on the night he was killed.

"This killer was let into our country because our government failed to properly identify him and turn him back at the border.

"Had ... mistakes not been made, Brian Bolyantu would be alive today," Windsor lawyer Greg Monforton said Wednesday.

A jury last Thursday convicted Michigan resident Jack Monroe Pharr, 22, of murder after Bolyantu, 22, was shot at close range on the sidewalk outside The Box Office bar at 531 Pelissier St. early on March 24, 2003.

The trial was told that five shots rang out in the downtown just 20 minutes after Pharr was permitted to cross the border. Crown evidence showed a customs agent twice failed to enter Pharr's name properly in a computer database of banned individuals.

Also left undetected during a secondary inspection was a loaded handgun hidden inside Pharr's boot.

"We're not holding Canada Customs to a standard of perfection ... but to a standard of reasonableness," said Monforton, who expects to file a statement of claim "in the next two to four weeks."

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"The potential for clearly dangerous people to cross ... should cause everyone who lives in our community to be concerned," he said.

The Bolyantu family, which contacted Monforton after the jury's ruling, is seeking punitive damages as well as damages under the Family Law Act for compensation based on "the loss of care, guidance and companionship reasonably expected to be received from Brian had he not been killed," according to a statement released by the office of Greg Monforton & Partners.

#### DUTY OF CARE

Under that legislation, said Monforton, "individuals and organizations, like Canada Customs, owe a duty of care to act reasonably to take care of others ... clearly they didn't discharge that duty."

Monforton said he is representing Bolyantu's mother and his two surviving brothers. He said the lawsuit could expand -- and with it the amount of compensation being sought -- to include the victim's two young children from two previous relationships.

The victim's family members are also seeking damages "for the depression and nervous shock they have suffered as a result of Brian's horrific death," according to the statement from Monforton's office.

Monforton, who is vice-president of the Ontario Trial Lawyers Association, said the lawsuit is also intended to "encourage Canada Customs to strengthen its practices and procedures" when it comes to questioning people seeking entry into the country.

Canada Border Services Agency spokesman Danny Yen said Wednesday it would be "inappropriate for me to provide comment on the case ... given there may be pending legal action."

#### EVERY EFFORT

Yen said the CBSA "makes every effort to keep undesirable, inadmissible people out of Canada ... as well as keep firearms out of our country."

He said that last year 6,965 people were turned back at the Windsor bridge and tunnel, and officers seized 242 prohibited and undeclared weapons, including 73 restricted firearms.

In the wake of last week's conviction, the Customs and Excise Union is calling for "a more failsafe method" of picking out undesirables at the border.

Yen said it would be impossible to thoroughly check each of the 13 million people who cross into Canada through Windsor each year.

A Windsor police investigation revealed that Pharr had been banned from Canada since his deportation in 2001 after he was convicted of pointing a handgun at a crowd of people on the waterfront during the Freedom Festival.

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