

No Charges For FBI Agent In Shooting

BY SEAN GARDINER

An agent with the Federal Bureau of Investigation won't face criminal charges for shooting from the second-story window of his home and hitting a man he believed was breaking into his car, a Queens prosecutor said Wednesday.

The two sides in the July incident agreed not to testify against each other, prosecutor Robert Hanophy told Queens Criminal Court Judge Dorothy Chin Brandt. The Queens district attorney's office "was not a party" to the deal, Mr. Hanophy said.

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The agreement prompted prosecutors to drop a pending case against Adrian Ricketts and his brother, who had been charged with breaking into the agent's car. And it means the office won't ask a grand jury to consider felony charges against the agent, Mr. Hanophy said, according to a transcript of the court appearance.

The agent's lawyer, Lawrence Berger, didn't return calls for comment. David Levine, the attorney representing the Ricketts brothers, wouldn't say if an agreement was reached but said he had had talks with Mr. Berger about the case.

The brothers weren't compensated financially by the agent in exchange for not testifying, Mr. Levine said. They also haven't sued the agent, whose name is being withheld by The Wall Street Journal because the FBI said he has taken part in undercover work. The brothers may still sue, Mr. Levine said.

Instead, the brothers chose

not to testify before a grand jury because prosecutors refused to offer them immunity, Mr. Levine said.

A conviction could have led to deportation back to their native Jamaica, he said.

In court, Mr. Hanophy said no one was offered immunity. "The district attorney's office will not choose sides with regard to this incident," Mr. Hanophy said.

The prosecutor told the judge that both sides understand the dismissals are final.

The shooting occurred about 5:15 a.m. on July 18, when the agent was awakened by his wife with the news that their car, parked in front of their South Ozone Park home, was being burglarized. The agent told authorities that he yelled several times, "Police, get away from the car," Mr. Hanophy said Wednesday. "At some point, the FBI agent believed that Adrian Ricketts was reaching for a weapon and fired one round," he said. A law-enforcement source said that the bullet was fired through a screen on an open window.

The shot struck Adrian Ricketts, 24 years old, in the back. He was arrested after seeking treatment at Brookdale Hospital. His 22-year-old brother, Andrae Ricketts, was arrested later. Both were charged with criminal mischief and petit larceny. No weapon was recovered from the arrested men, who pleaded not guilty to the charges.

At the time of the shooting, FBI spokesman J. Peter Donald said the office would conduct a "thorough, independent investigation." FBI policy allows agents to use deadly force when they believe a suspect "poses an imminent danger of death or serious physical injury to the agent or another person."

On Wednesday, Mr. Donald declined to comment on the case or say if the agent faces internal disciplinary action for the shooting.