

BART officer fired in Grant probe gets job back

OSCAR GRANT SHOOTING Probe that led to her firing was flawed, arbitrator says

Demian Bulwa, Chronicle Staff Writer Published 4:00 am, Saturday, December 18, 2010

An arbitrator ordered BART on Friday to reinstate a police officer the agency fired for allegedly lying to investigators and an Alameda County judge about another officer's killing of unarmed train rider **Oscar Grant**.

Although BART didn't accuse Marysol Domenici of using excessive force, she became a focus of some of the community outrage stirred by the case because she helped detain Grant before he was shot by former Officer **Johannes Mehserle**.

A jury convicted Mehserle in July of involuntary manslaughter for the Jan. 1, 2009, killing at BART's **Fruitvale Station** in Oakland. He was sentenced to two years in state prison.

The arbitrator, **William Riker**, ordered Domenici reinstated to the BART force without restrictions and with full back pay. He said a 14-day hearing had produced "no basis for the conclusion that Officer Domenici was untruthful in her statements and testimony" at a preliminary hearing in Mehserle's criminal case last year.

Domenici, 30, is "absolutely thrilled that her name has been cleared," said her attorney, **Alison Berry Wilkinson**. "She was definitely collateral damage in the frenzy that followed the shooting."

Attorney not surprised

John Burris, an attorney who sued BART on behalf of Grant's family, said he was disappointed but not surprised by the ruling, considering that Domenici had not been accused of physically abusing Grant and other men detained after a fight aboard a train.

"She was not truthful about her observations," Burris said. "And she exaggerated the threat that was presented to make all of the officers (at Fruitvale Station) seem like they were in some kind of siege situation."

Domenici spent 15 months on paid leave before then-interim BART Police Chief **Dash Butler** fired her in March. Butler, who is no longer with the agency, was following the recommendation of law firm Meyers Nave, which BART hired for \$283,000 to conduct an independent internal-affairs probe into Grant's killing.

Arbitrator rips report

Riker took issue with the Meyers Nave report, saying investigators had not asked witnesses key questions and had handed BART officials a "flawed" analysis of video of Grant's killing.

Domenici responded to the Fruitvale platform after her partner, then-Officer **Anthony Pirone**, detained Grant and the other men. Pirone ordered Grant arrested for allegedly resisting, and Mehserle shot Grant in the back while he was trying to handcuff the 22-year-old Hayward resident.

Mehserle said at trial that he had meant to subdue Grant with a Taser shock weapon but had mistakenly fired his pistol.

The arbitrator disputed several of BART's allegations against Domenici, including that she had not truthfully reported that Pirone struck Grant in the face and kned him. Riker said Domenici had not been in position to see either alleged blow.

Pirone also appealed

He said BART had also accused Domenici of lying by calling the crowd at the station "hostile." In fact, Riker said, Domenici never used that word.

BART also fired Pirone, whose appeal is pending.

Grant's family has long been angry with Domenici, largely because of her court testimony. Referring to Grant and his friends, she said at the preliminary hearing, "If they would have followed orders, this wouldn't have happened."

But Wilkinson said Domenici had been the victim of a "severely flawed" probe and was devoted to law enforcement.

Domenici graduated Friday from the firefighter academy at Los Medanos College in Pittsburg, but her attorney says she will return to the BART force.

BART spokesman Linton Johnson said, "Because of the union contract (giving officers binding arbitration), we are required to live with this final ruling. It's out of our hands."

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