

Civil jury gets case against Johannes Mehserle, second BART officer

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SAN FRANCISCO -- Jury deliberations began Monday at the civil trial against former BART police Officer Johannes Mehserle over the Jan. 1, 2009, fatal shooting of Oscar Grant III on the Fruitvale BART station platform.

"You're the first and only jury to decide this matter in the civil arena," said attorney Waukeen McCoy, representing the slain 22-year-old Hayward man's father, Oscar Grant Jr. "You will have to decide the value of a young black man's life to his father

"You will tell the world with your verdict what you think about the wrongful killing of Mr. Grant," McCoy said.

The federal jury is being asked to decide whether Mehserle, who says he intended to fire his Taser instead of his gun, maliciously acted to harm Grant III in disregard of legitimate police objectives and whether Grant Jr., 50, is entitled to damages despite being incarcerated during his son's entire life.

The jury will also decide a separate excessive force case brought against BART police Officer Marysol Domenici by Grant III's best friend, Johntue Caldwell, whose mother, Zeporia Smith, has been championing his claim since he was killed in an unsolved Hayward gas station shooting in 2011.

Grant III's mother, daughter, girlfriend and friends who were detained alongside him by BART police that New Year's Day morning have all settled their lawsuits against BART and the officers involved. The two current complaints over the shooting that sparked national outrage and inspired a Hollywood movie are the first to reach a civil jury.

Mehserle, 32, served about a year in jail after a Los Angeles jury in 2010 acquitted him of murder and convicted him of involuntary manslaughter for shooting an unarmed Grant III in the back while Mehserle and the lead officer, Anthony Pirone, tried to handcuff him.

McCoy argued that Mehserle lied when he said he meant to fire his Taser and that Mehserle intentionally fired his gun because he believed that Grant III was reaching for a gun. The shooting was captured by cellphone videos played repeatedly for the jury, and each side of the courtroom provided witnesses to bolster their case.

Attorney Michael Rains, who also represented Mehserle at the criminal trial, pointed to witnesses statements that Mehserle called out a Taser warning before the shooting and afterward appeared to be upset and in shock.

Just as Mehserle's claim of weapons confusion is at issue, Grant Jr.'s relationship with his son -- or lack therefore -- was subjected to scrutiny during the three-week trial.

Although he has been imprisoned for an 1985 Oakland murder since before his only child was born, Grant Jr. said that he and his son had a deep relationship maintained through prison visits, phone calls and letters. He said he last talked to his son three days before the fatal shooting, and they had many plans to spend time together after his eventual parole.

Rains argued that these calls and visits were much fewer than Grant Jr. wants the jury to believe and enumerated all the things Grant Jr. didn't know about his son.

"I smell a rat. They are not being honest with you," Rains said.

Attorney Jessica Barsotti, representing Smith on behalf of her late son, Caldwell, told the jury that Caldwell wanted to stay near his best friend

after the shooting, but Domenici shoved him around the platform, put a Taser to his face and forced him onto a departing train.

"If you don't want this to happen to other people, you need to show the police that this is wrong," Barsotti said.

Domenici's attorney, Alison Berry Wilkinson, said that Caldwell lied, and the video evidence proves it.

"You can see from the video, nothing he described happened," Berry Wilkinson said.

Barsotti countered that Caldwell's account is corroborated by an unrelated witness who said Domenici was being aggressive after the shooting.

The jury deliberated for less than an hour Monday and will continue Tuesday morning.

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