

Trial in Amadou Diallo killing is moved out of New York City

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23 December 1999

A five-member panel of the Supreme Court Appellate Division of New York State has ruled that the trial of the four police officers charged with the murder of West African immigrant Amadou Diallo in the Bronx last February must be moved 150 miles north to Albany County.

Diallo was killed in a hail of 41 bullets on his own doorstep in the Soundview neighborhood where he lived. The plainclothes cops, members of the Street Crime Unit, later claimed that they thought he had a gun. Allegedly looking for a rapist, they began firing when Diallo, frightened by their commands, apparently tried to take out his wallet to show them identification. The immigrant worker was unarmed.

The death of Diallo struck a nerve among working people, especially minority and immigrant workers, who recognized that they could just as easily have been the victim of this police shooting. The Street Crime Unit was known for its “stop and frisk” policy on the streets, and for riding roughshod over civil liberties in its effort to meet quotas for arrests and seizures of weapons. Many felt that Diallo was the victim, not merely of four individual police officers, but of the law-and-order crusade carried out by the administration of Mayor Rudolph Giuliani.

Following the shooting there were angry demonstrations, both in the Bronx and at Police Plaza in downtown Manhattan.

Now the appellate court is using these demonstrations to argue that the case against the police has been “deluged by a tidal wave of prejudicial publicity.” According to the judges, “this case cannot be tried in Bronx County, or anywhere else in the city of New York, without an atmosphere in which jurors would be under enormous pressure to reach the verdict demanded by public opinion.”

The population of the Bronx is overwhelmingly working class, and more than two thirds of the borough's residents are black or Hispanic. Instead of the trial being held there, it will be moved to an upstate county that has less than 25 percent of the population of the Bronx. Moreover, only 12 percent of Albany County's residents are black or Hispanic.

An attorney who has tried several lawsuits against the police in Albany commented after the court decision, “If I were a defense lawyer, I don't think I could pick a better spot than Albany County to present a case” like the Diallo case. Another attorney said, “There have been very few convictions of police officers in Albany County in my 30 years of practicing law. Quite honestly, I can only recall one.”

A change of venue in a criminal case is very rarely granted. Moreover, to grant a motion for such a change without even attempting to impanel a jury is almost unprecedented. The court acknowledged as much, writing in its unanimous opinion that moving a trial is “an extraordinary remedy reserved for the rarest of cases,” adding that this “is that rare case.”

The argument put forward by the judges was extremely revealing. They cited news accounts as “outside influences” on the jury pool. In fact, the media publicity in this case was driven by the public outcry, not the reverse. Equating public anger with prejudice and inability to fairly try the case, the judges' action denies the residents of the Bronx, or any other part of New York City, their right to sit on a jury in this matter.

Mayor Giuliani stepped in immediately to applaud the change of venue. The mayor stated, “I think the judges said, ‘We're going to treat police officers the way we treat all other human beings. They're entitled to a fair trial also.’ I think a number of people do not treat

police officers as human beings.”

This is an interesting statement from a politician who has largely built his career by harping on what the media call “victims' rights,” supporting in the name of these rights attacks on civil liberties and constitutional protections for defendants in criminal proceedings. Now that police officers are the ones being prosecuted, Giuliani evinces a new-found concern for the rights of the accused.

His concern that the four police officers in this case be treated as human beings stands in garish contrast to his cavalier attitude toward the deceased, whose humanity was wiped out in the most brutal and bloody manner. Diallo was shot down like a dog, but Giuliani would have the public look upon the police who did the shooting as the victims.

In justifying its ruling, the court made the following statement: “A trial in which the jurors have been persuaded in advance, by outside influences, that they have a duty to reach a certain verdict is not a trial; it is no different from the staged proceedings of totalitarian societies where there is the illusion of a fair trial but the predetermined outcome follows a script.”

In the given context, the court's invocation of democracy against totalitarianism is absurd, since the “outside influences” which so concern the court are the thoughts and feelings of a large section of the Bronx, and the city as a whole, i.e., those from whom a jury of the defendants' peers are supposed to be drawn.

The transfer of this trial to Albany recalls the events of 1992 in Los Angeles. The trial of the four Los Angeles police officers who were caught on videotape beating Rodney King was moved to the largely white suburb of Simi Valley, in neighboring Ventura County. The killing of Amadou Diallo had this much in common with the beating of Rodney King—the police were caught in the act of a brutal assault. In the Rodney King case, the cops were acquitted in the 1992 trial, and Los Angeles was rocked by days of rioting. Two of the police were later convicted on federal civil rights charges.

The court argues as though police have been regularly framed up and imprisoned for crimes they did not commit. In fact, prosecutions for police brutality are still extremely uncommon in New York, and convictions even rarer. In the 1980s there were numerous cases, like those of Michael Stewart and

Eleanor Bumpurs, for whom no one was convicted. Bronx cop Francis Livoti was finally convicted in a federal trial in the chokehold death of Anthony Baez. Most recently Justin Volpe was convicted for brutalizing Haitian immigrant Abner Louima. The lesson the court seems to have drawn from these most recent cases is to move police brutality trials out of New York.

Giuliani also argued that the demonstrations against the police ten months ago made it impossible to hold the current trial in New York. This claim, along with the court decision, is calculated to intimidate and discourage future protests.



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