

Three New York police officers acquitted in brutality case

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A jury acquitted three New York City police officers on February 22 on abuse and cover-up charges stemming from the arrest of a young man in a Brooklyn subway station in October 2008.

Michael Mineo, a 35-year-old tattoo artist, charged that he was assaulted after police chased him for smoking marijuana. He said that he was running to avoid an outstanding warrant, and said that Officer Richard Kern had sodomized him with a police baton. Kern, charged with aggravated sexual abuse, could have faced up to 25 years in prison if convicted. Officers Andrew Morales and Alex Cruz were charged with covering up the incident, and faced sentences of up to four years if convicted.

The not-guilty verdict, after a month-long trial and several days of deliberations, came despite medical evidence that Mineo's injury, for which he was twice hospitalized after the incident, was consistent with his claim. In addition, another cop who happened to be in the station at the time of the arrest, transit officer Kevin Maloney, testified that he saw Kern press his baton into Mineo's buttocks, but claimed he did not consider it sexual abuse.

Mineo pointed out that he had been released with a summons despite having an outstanding warrant for his arrest, and that the police had let him go with a warning and threat in order to avoid questions over the brutality he had suffered at their hands.

The outcome of the court action is a further demonstration that an absolutely airtight case, preferably including videotape evidence that is virtually impossible to challenge, is necessary for the conviction of cops who brutalize workers and youth.

As is typical, the cops in this case turned to the Patrolmen's Benevolent Association, which called

upon veteran criminal defense attorneys who have made careers of successfully representing officers accused of misconduct.

Appealing to jurors on the basis of "reasonable doubt," the defense attorneys threw every possible question mark at the prosecution case, including calling their own medical witnesses who contradicted the testimony of the doctors who treated Mineo in the hospital.

The defense used the scurrilous technique of virtually putting the victim of the assault on trial, eliciting admissions from Mineo that he regularly smoked pot and that he had a gang affiliation. There were almost no objections from prosecutors from the office of Brooklyn District Attorney Charles Hynes as the hired guns retained by the PBA cross-examined Mineo with such comments as, "You didn't get stoned today before you came to court, did you?" The lawyers also provoked Mineo with demands that he dramatize the assault and scream as he did during the attack.

On top of this, while the defense was allowed to undermine Mineo's credibility with extraneous insinuations, the judge in the case would not allow the introduction into evidence of the fact that Kern, who is only 26 years old, has already faced two other charges of excessive force, and that the city paid \$50,000 in 2007 to settle one of these cases.

In fact, when a juror referred to this information in mistakenly telling her fellow jurors that Kern had twice been convicted of brutality, she was immediately removed and replaced by an alternate.

The police involved in the case still face departmental review, as well as the demand for a federal investigation of the charges. In addition, Mineo is pursuing a \$440 million civil suit, which will proceed.

Police brutality has a long and infamous history in

New York as well as other major cities in the US, but the only recent conviction of a police officer came in the case of Abner Louima, the Haitian immigrant who was brutally sodomized in 1997 and whose mistreatment became known all over the world. In that case the victim's injuries were so serious that a filthy attempt by the police to suggest that Louima might have injured himself in "rough sex" convinced no one. Justin Volpe was convicted and sentenced to 30 years in prison.

The official reaction to the not guilty verdict was silence or satisfaction. As unemployment and poverty spread amidst continuing obscene bonuses for the bankers, the authorities rely on the police force to defend the hated status quo, and justify or excuse police "excesses." Along these lines, an editorial in the *Daily News* after the verdict smugly declared, "The accusations leveled by Michael Mineo, a tattoo artist, pothead and admitted thief, simply were not substantiated beyond a reasonable doubt."



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