

Albuquerque police officers who killed homeless man to stand trial for murder

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An Albuquerque judge ruled August 18 in favor of trying two Albuquerque Police Department (APD) officers for the shooting death of mentally ill homeless man James Boyd in March 2014. Judge Neil Candelaria's decision followed closing arguments at a preliminary hearing that morning by the prosecution and defense attorneys for Keith Sandy and Dominique Perez, who fired the fatal shots.

The killing of Boyd, who was gunned down by officers armed with assault rifles for the "crime" of illegally camping, ignited protests in Albuquerque and around the nation after a video of the incident went online.

The preliminary hearing began August 3, took a one-week break between August 10 and 14, and resumed on August 17. The prosecution's case was presented by private attorney Randi McGinn, who was appointed Special Prosecutor due to the disqualification of Bernalillo County District Attorney Kari Brandenburg, who was under investigation for bribery allegations that were later dropped.

In her opening statement, McGinn blamed the shooting on a "paramilitary response" that escalated a case of illegal camping in the city's northeast foothills into a lethal encounter involving 19 officers and more than 700 rounds of ammunition. "What was the crime that prompted this paramilitary response? It was not a terrorist act. It was illegal camping," she stated. She added, "They created the danger. It was not Mr. Boyd who came at them."

Sandy's defense attorney, Sam Bregman, presented the incident as a justified shooting "of a crazy man with two knives." Perez's lawyer, Luis Robles, claimed that Boyd was responsible for his own death, having given the officers "no choice" but to fire flash bang grenades and a Taser, sic a police dog on him and ultimately fire

six shots at Boyd, three of which struck and killed him.

McGinn pointed to numerous discrepancies throughout the hearing. When she questioned APD lead investigator Detective Geoffrey Stone, he admitted that though "I do typically try to interview [officers accused of wrongdoing] right away"—in order to keep them from coordinating their stories—he waited two days to talk to Sandy and Perez. During defense questioning, Stone quoted Sandy's claim, customary in post-incident interviews of officers, that he felt "threatened" by Boyd's "aggressive manner."

Stone could give no explanation for the fact that neither Sandy nor detective Richard Ingram, who fired the Taser shot, ever produced lapel cam videos. When Judge Candelaria asked APD criminalistics detective Nathan Render if he requested their videos, he replied, "I don't believe so. I believe it may have been missed." When he finally requested a video from the on-scene Sergeant—*eight or nine days later* by his recollection—"the video had been cleared and the Boyd encounter wasn't there," according to a KRQE report.

APD officers are notorious for not recording incidents on their video cams, either because they "forgot" to turn them on or because the video cam mysteriously malfunctioned right at the crucial moment. If they do function, they may, as Render's testimony makes clear, get misplaced or erased.

On the third day of the hearing, defense attorneys moved to dismiss all charges. Of the four charges—second-degree murder, voluntary manslaughter, involuntary manslaughter and aggravated battery—the judge dropped only the involuntary manslaughter charge, since "the evidence what I've heard is more of intentional and I haven't heard much of anything unintentional," as he told the attorneys.

The hearing included the testimony of Dr. William J. Lewinski. According to a KRQE report, “The defense maintains that Lewinski is an expert when it comes to officer action and reaction times during shootings, with a substantial academic background.”

In fact, as the *World Socialist Web Site* has reported, Lewinski, “who charges \$1,000 per hour to testify at trial, specializes in offering psychological justifications for police shootings, in which he purports to determine what each of the participants thought and observed. He also testifies that police officers who give inaccurate accounts of shootings are really just experiencing memory loss.”

Or, as the WSWS article put it, Lewinski is in “the lucrative business of cooking up junk science to justify police shootings.”

Lewinski was in typical form at the hearing, using frame-by-frame footage of the shooting to make the claim that James Boyd was hit in the back because the first gunshots had caused him to turn. The judge cut his testimony short because of objections by McGinn, who called his testimony “hogwash” and quoted comedian Jon Stewart: “‘There is B.S. out there,’ is what he said, except he used the real words, and when you smell it, you need to call somebody on it.”

Other defense witnesses, including an APD sergeant, a police instructor and the police dog handler—who claimed that Sandy and Perez “saved my life”—presented the officers as acting appropriately when confronted with a dangerous, “crazy man with two knives” threatening the very lives of terrified (and heavily armed) police officers. Since they could not subdue Boyd with “less lethal” means, they were eventually forced to shoot him. Sgt. Jim Fox praised Perez for being “very calm under fire [!]” and said that, “he made great decisions.”

McGinn countered that it was never a full SWAT callout, that Boyd was outmanned and that there was a third lethal cover officer, in addition to Sandy and Perez, who did not fire even when James Boyd took out his knives. Sandy, in fact, had told investigators that he had been called to the scene by mistake, but decided to go anyway. Moreover, it was the police dog handler, Scott Weimerskirch, who approached Boyd when he tried to correct his dog, who had not followed his ‘sic’ order at first.

Three hours after hearing the closing arguments,

Judge Candelaria stated, “Counsel, having considered all the evidence in the case and applying the standard of probable cause... The court finds—with the exception of involuntary manslaughter—that the state has established probable cause as to all the counts in the amended information. The court will bind the matters over for trial.”



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