

Baltimore police officer on trial for the death of Freddie Gray found not guilty

George Gallanis
24 May 2016

Yesterday, a Baltimore Circuit Court judge found Edward Nero, 30, not guilty of four misdemeanor charges of second-degree assault, reckless endangerment and two counts of misconduct in office. Nero is the second of six police officers to go on trial for the death of Freddie Gray, who died in April of last year from severe spinal injuries after being given a “rough ride” in the back of a Baltimore police vehicle.

Gray’s death sparked weeks of protests and limited rioting against police brutality in the city. Local and state officials suppressed the protests by deploying the National Guard.

Baltimore Police officers charged Gray with possessing an illegal knife after he “made eye contact” with a cop and ran from police. Baltimore State’s Attorney Marilyn Mosby would later comment that Gray’s knife was not a switchblade and therefore legal to possess, making Gray’s arrest unlawful.

After Gray was arrested, he was placed in a cage-like contraption in the back of a police van and taken for a “rough ride.” This is a practice in which police officers, after throwing a handcuffed detainee into the back of a van without a seatbelt, drive around while making frequent stops in order to intentionally cause injury to the person.

Gray was loaded in with his feet and wrists shackled, but not secured to a safety belt. The van accelerated and decelerated five separate times, throwing Gray violently about, resulting in his death several weeks later.

Nero was one of two police officers who physically apprehended Gray as he fled the police. He opted to have his trial decided by a judge rather than a jury. State prosecutors accused him of misdemeanor charges of second-degree assault and misconduct for arresting and detaining Gray without legal justification; reckless

endangerment for not buckling Gray’s seatbelt as he was placed into the van; and an additional second-degree assault charge relating to Gray’s treatment as he was loaded into the police van.

The state prosecutor’s argument that Gray’s arrest by Nero was illegal has been criticized by the *Baltimore Sun* as “novel” or even “radical,” stating, “When the constitutionality of a police stop is questioned, the typical remedy is for charges to be dropped or evidence suppressed. Officers can also be sued.” In other words, the proposal of such a charge would only be met with great resistance throughout the entire judiciary system. If such a charge were to hold—that is, if Nero had been convicted—it would have been seen as an indictment of the entire police state apparatus.

Casually dismissing the possible unconstitutional nature of Nero’s arrest of Gray, his lawyer, Marc Zayon, stated, “Wrong or right isn’t the standard. The standard is, were they so wrong that it was unreasonable?”

Warren Brown, a defense lawyer who had been monitoring the case, stated, “If you’re going to go back and charge every police officer whose arrest was determined to be illegal with assault, or every search that’s deemed to be absent probable cause, you’re going to indict the entire police force.”

According to an autopsy based upon video footage surrounding the events, at the second stop, “Mr. Gray was still yelling and shaking the van.” According to the medical examiner, Gray “was removed and placed on the ground in a kneeling position, facing the van doors, while ankle cuffs were placed, and then slid onto the floor of the van, belly down and head first, reportedly still verbally and physically active.”

As the police van made its fourth stop, “The assisting officer opened the doors and observed Mr. Gray lying

belly down on the floor with his head facing the cabin compartment, and reportedly he was asking for help, saying he couldn't breathe, couldn't get up, and needed a medic. The officer assisted Mr. Gray to the bench and the van continued on its way."

By the time the van made its fifth stop, Gray "was kneeling on the floor, facing the front of the van and slumped over to his right against the bench," and reportedly appeared lethargic with minimal responses to direct questions. Gray died a week later with three fractured vertebrae, an injured voice box, and a spine that remained only 20 percent attached to his neck.

During Nero's trial, Baltimore police officer Garret Miller was compelled by prosecutors to testify and was granted immunity.

Miller faces the same charges as Nero and has been accused of being an accomplice in the apprehension of Gray. During his testimony, Miller testified that he had acted alone when Gray was caught and handcuffed. He told the prosecution that Nero had left to retrieve their bicycles from another location. However, state prosecutors noted Nero and Miller's use of the word "we" as they detailed the arrest as evidence that both were involved in apprehending Gray.

Prosecutors accused Miller of distorting the original story of the arrest in an attempt to help Nero. But Circuit Judge Barry Williams, who presided over the case, concluded, "When the detention morphed into an arrest, the defendant was not present. As such, the court rejects the state's theory that the defendant was involved in the arrest, because, absent 'I' and 'we,' there are no credible facts to show that he was involved in the touching of Mr. Gray before Miller brought him to the corner." As such, the entire question of whether Nero acted legally or illegally in his arrest of Gray was thrown out.

For the charge of whether Nero intentionally did not secure Gray to a seatbelt, Williams stated, "The officer who is charged with transporting a detainee may have a duty to make sure that the person being transported is properly secured, and if not, seek help from other officers if there is a need to do so. However, this court acknowledges that there may be circumstances where that duty may shift or be nonexistent in relation to a particular officer."

Clarifying his statement, Williams argued that Nero might have assumed that the responsibility for securing

Gray to a seatbelt rested upon the driver of the van, Caesar Goodson, who faces second-degree murder charges. The logic of this argument is baseless. How could Nero—or the other police officers present at the scene—not assume that Gray needed to be secured as he could not do so himself, being bound by his feet and hands?

Up next to stand trial is Officer Goodson, on June 6, facing the charge of second-degree depraved heart murder; Officer Brian Rice on July 5 for assault and manslaughter charges; Officer Garrett Miller on July 27 for an assault charge; Officer Alicia White on October 13 for manslaughter and assault charges; and Officer William Porter who will face a retrial on September 6.



To contact the WSWs and the
Socialist Equality Party visit:

wsws.org/contact