

Preliminary hearing for cop who killed Patrick Lyoya delayed again

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22 August 2022

The preliminary examination in the trial of former Grand Rapids, Michigan, police officer Christopher Schurr for second-degree murder in the killing of Patrick Lyoya has been delayed yet again, this time without a new date being set.

At the request of the defense and over an objection by Kent County Prosecutor Chris Becker, District Court Judge Nicholas Ayoub agreed to the delay. Instead, the judge set a status conference between the prosecution and defense for September 23.

This means that the preliminary exam, which is typically held within weeks of charges being filed, has now been delayed for more than three months for the former police officer.

Schurr was charged on June 9 for shooting Patrick Lyoya, a 26-year-old Congolese refugee, execution-style in the back of the head, on April 4. The former officer, who is white, had pulled Lyoya over due to a license plate violation and an altercation ensued. During the struggle, Lyoya ended up face down on the ground with Schurr's taser under him. Schurr then placed his gun against the back of Lyoya's head and pulled the trigger, killing him instantly.

The examination was previously scheduled for August 31, but Schurr's attorney, Matt Borgula, said that the defense needed more time for review of documents and to work out scheduling conflicts. The defense and prosecution presented arguments on the motion before Ayoub at a hearing on August 19.

The defense stated that it is still waiting on important documents from the city. These documents are related to training and police procedures. Borgula told the court that these documents are specifically concern the use of tasers, high-risk traffic stops, and prevention of the use of excessive force.

Borgula argued that these documents are necessary

for the cross-examination of witnesses at the preliminary hearing. He subsequently told reporters, "The defendant, in every case, has a fundamental right to review the discovery so they can effectively prepare to cross-examine the state's witnesses, and that's all we're asking for here."

As was the case before Schurr was charged, those defending him have claimed that the gruesome murder of Lyoya was justified as a legitimate act of policing. Attorney Borgula stated that the training and procedure documents will show that Schurr followed the rules of the Grand Rapids Police Department when he aimed his gun at the back of Lyoya's head and fired one bullet that went through his brain and lodged in his skull.

Borgula also downplayed the fact that the judge's latest ruling represents yet another delay in the trial. He told reporters, "Nobody wants to get this over with quicker than Officer Schurr, who is confident that he's going to be exonerated."

For his part, prosecutor Becker argued that he was ready to proceed, with six witnesses lined up. Hinting at the intense public scrutiny of this case, Becker told the court that the Lyoya family has been preparing themselves emotionally for the hearing. The most incriminating evidence against Schurr is a smartphone video, taken by a passenger in Lyoya's vehicle, which graphically shows a portion of the struggle between the two and the moment of the killing.

"From my perspective, that's going to be the most difficult thing for the victim's family, just because there's going to be videos and stuff like that, and they've kind of been preparing for this," Becker told Ayoub at the hearing.

He then proposed as a compromise that he could present his case on August 31, after which the defense

could respond when it is ready.

Becker also emphasized the importance of the issue of cross-examination: “If they’re [Schurr’s attorneys] saying they can’t cross-examine the witnesses, that does pose a problem.” In the event Schurr is convicted, claims of an inability to cross-exam witnesses could be used by the defense as grounds for an appeal.

So far, there has been no explanation for the difficulty in getting documents from the city. According to Borgula, the defense is working with the Office of the City Attorney to get the documents.

Becker also addressed the problem with discovery, though he also was unable to explain what is delaying the process. “I would hope maybe we could then, with the court’s help, sit down with the city and get them in here and then get these documents over to the defense as soon as possible so we don’t do this a third or a fourth time, because we’re still working on trying to get these documents.”

As part of Judge Ayoub’s ruling on August 19, he issued a subpoena to the city of Grand Rapids, ordering them to turn over the requested documents.

Ayoub also granted the defense’s motion for an indefinite delay to the preliminary examination. To justify his ruling, Ayoub stated, “I do think that the ability to effectively cross-examine the People’s witnesses at the preliminary examination is important enough to justify further delay.”

Although he did not set a new date, there will be a status conference held between the defense and prosecution on September 23.

After the hearing on August 19, Borgula told MLive, “It’s important to look at the training issues, because one of the issues is whether or not the killing in this instance was justified.”

The three elements of second-degree murder, according to Becker, are that the defendant killed a person, that they intended to kill them, and that there is nothing to justify the killing. It is most likely on this third point that Schurr’s attorneys will try to refute the charge.

Borgula continued: “This is not a normal case where you have two people that get into a fight and one person dies; this is a police officer who holds special privileges under the law. It is his job to investigate and apprehend people that are committing crimes.

“So, when you have someone charged with murder in

the scope of his duties—he was on duty, he was doing his job at the time—there are special privileges that make it justified as opposed to the average person on the street.”

Schurr’s case is significant because it is extremely rare for a police officer in the US to be charged with a crime after they kill someone. In most cases, especially those where no video recordings of the event are available, the officers are considered to have been justified in the use of deadly force.

It is even more unlikely for a police officer who has been charged with murder to be convicted. For example, between 2019 and 2021, police killed 3,074 people across the US, according to a database maintained by the *Washington Post*. During those three years, only eleven officers were convicted for an on-duty killing, or approximately one-third of one percent of the time.



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