



Written by [C. Mitchell Shaw](#) on May 23, 2016

Officer in Freddie Gray Case Found Not Guilty on All Charges

Baltimore Circuit Judge Barry G. Williams found Officer Edward Nero (shown) not guilty on all charges related to the death of Freddie Gray. The verdict was read to a crowded courtroom and overflow room Monday. Nero was charged by prosecutors last year in the death of Gray, who died while in police custody. The charges against Nero were second-degree assault, reckless endangerment, and misconduct in office.



This is the second trial in the case of the death of Freddie Gray, and the second to end without a conviction. In December, Officer William Porter was tried for second-degree assault, reckless endangerment, misconduct in office, and manslaughter. After hearing all the evidence and deliberating for more than 15 hours over three days, the jury informed the judge that it was unable to decide on a verdict. The judge [declared a mistrial](#) and dismissed the jury after saying that though it had “clearly been diligent,” he could see that “It is clear you will not come to a unanimous agreement on any of the four charges.” Barry Williams was the judge in both cases. Porter, who left the courthouse a “free” man, but still under indictment, has a retrial scheduled for September.

Prosecutors appear to have been waiting to see how the charges against Nero would hold up in court before moving forward in retrying Porter, who has been ordered to testify under immunity in the upcoming trials of Officer Caesar Goodson and Officer Alicia White. Porter is appealing that order, saying that forcing him to testify is a violation of his rights.

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In all, six police officers were indicted by a grand jury with charges ranging from misconduct in office to second-degree depraved-heart murder. After the previous mistrial, the stakes for the prosecution were very high in Nero’s case. There is no doubt this acquittal is a major setback for Baltimore City State’s Attorney Marilyn Mosby, who initially charged the six officers.

Perhaps the most telling part of the judge’s verdict is his ruling that by not restraining Gray in a seatbelt, Nero acted reasonably since Gray was violent and uncooperative. His decision that Nero acted as “any reasonable officer” would have indicates that one of the major claims of the prosecution — that the officers caused Gray’s injuries by not buckling him in — will not stand up to scrutiny.

The prosecution has claimed that the spinal cord injury which caused Gray’s death was the result of Gray being launched forward during either a stop or a sharp turn and striking his head. The defense claims — based on a statement given by another suspect in the van — that Gray caused his own injuries in an attempt to avoid going to jail.

Officer Garrett Miller — who is still awaiting trial — testified at Nero’s trial that when the van stopped at one point for officers to fill out forms, Gray was so violent inside the van that he was rocking the vehicle from side to side. Officers removed Gray and shackled his feet before placing him back in the van. When the van arrived at central booking, Gray was unresponsive. He was taken to a hospital where



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he was treated for a spinal cord injury consistent with a “diving injury” where the head stops moving, but the body does not. He died a week later from his injuries.

Prosecutors claim that he would not have sustained the injury if he had been wearing a seatbelt. Nero’s attorney, Marc Zayon, argued that due to Gray’s violent resistance, it would have been impossible to put him in a seatbelt without sacrificing officer safety. “Everything that was done in this case was done correctly,” Zayon said. Judge Williams apparently agreed.

Besides making the point that not restraining Gray with a seatbelt was proper, Judge Williams also said that the prosecution had failed to make its case that Nero was guilty of any of the other charges. Though Nero was present at the time Gray was arrested, he neither arrested nor detained Gray, so the charge of assault was without merit. The judge also said that he could not find Nero guilty of the related charge of misconduct in office, since, if Nero did not place the handcuffs on Gray, he could not be guilty of that charge.

Nevermind the ridiculousness of charging a police officer with assault for handcuffing a suspect.

Unlike Porter, Nero waived his right to a jury trial, electing instead for a bench trial where the judge hears the evidence and issues a verdict. He also did not testify at all in his trial. Because he was found not guilty on all charges, he cannot be tried again.

While Baltimore City State’s Attorney Marilyn Mosby was thrust into the national scene by charging the six officers, her time in the limelight may have been short-lived. Unable to bring a conviction in either of the first two trials, her decision to charge the officers appears to be losing its veneer of reasonableness. In fact, from the beginning the prosecution of these officers has looked more like persecution for political reasons.

In the days after Gray’s death, the city erupted in violent riots. As this writer reported previously:

The day before Gray’s death — April 18, 2015 — the protests began. One week into the protests, riots and looting rocked Baltimore as protesters turned violent, setting fires and throwing rocks. More rioting and looting followed Gray’s funeral two days later. Before the violence died down, at least six officers were seriously injured and nine others suffered less serious injuries, two patrol cars were destroyed, a CVS pharmacy was burned down, the National Guard was called in, and a city-wide curfew was put in place.

In her statement on May 1, 2015 announcing the charges against the officers, Mosby said to the assembled crowd, “I have heard your calls of ‘No Justice; No Peace!’” She added that by charging the officers, she was attempting to bring about peace by offering justice. But is it really justice to destroy the lives of six police officers who were doing their jobs by bringing in a violent criminal?

Then in September 2015, Baltimore Mayor Stephanie Rawlings-Blake [announced a payment of \\$6.4 million to the family of Freddie Gray](#), calling it a settlement for all civil claims in his death while in the custody of Baltimore police, even though no lawsuit had ever been filed. As *The New American* reported then, the mayor hinted that the “settlement” was a way to pacify the city’s angriest residents in order to avoid “harm to the community” and “divisiveness.” In announcing the payoff, she said:

We must weigh the potential financial cost of defending the lawsuits in court and the potential exposure to the citizens of the city of Baltimore if we are unsuccessful in court — and for that matter if we are successful in court. In this case, faced with the prospect of significant legal expenses involved in an extended federal lawsuit as well as the potential liability that could come



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with an unfavorable jury verdict, our city's attorneys came to the conclusion that the six-point-four million dollars settlement is in the best interests of protecting taxpayers.... The purpose of the civil settlement is to bring an important measure of closure to the Gray family, to the community, and to this city, and to avoid years and years of protracted civil litigation *and the potential harm to the community and the divisiveness which might result.* [Emphasis added.]

It remains to be seen whether that payoff will be enough to keep the city from burning again, but Gray's family — at least — is not upset about this recent verdict. Billy Murphy — the family's attorney — said that "you couldn't ask for a more fair-minded judge than Barry Williams" and that Williams did the right thing by sticking to the rule of law in the face of overwhelming pressure. If only that sentiment had been applied all along.

The other officers' trials are scheduled to begin in this summer with Caesar Goodson on June 6, followed by Brian Rice on July 5 and Garrett Miller July 27. Then in the fall, William Porter is scheduled to face trial for the second time. Alicia White will be last, with a scheduled trial date of October 13.

With the second non-conviction in the Freddie Gray case and the ruling by Williams that "any reasonable officer" would have chosen not to put Gray in a seatbelt, one has to wonder if prosecutors will continue pursuing the charges against the other officers involved or if it may finally be time to bring this political witch-hunt to a close.

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