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THE DIALLO VERDICT: THE OVERVIEW

THE DIALLO VERDICT: THE OVERVIEW; 4 OFFICERS IN DIALLO SHOOTING ARE ACQUITTED OF ALL CHARGES

By JANE FRITSCH

ALBANY, Feb. 25— Four New York City police officers were acquitted today of all charges in the death of Amadou Diallo, the immigrant from Guinea who was fired on 41 times as he stood, unarmed, in the vestibule of his apartment building in the Bronx.

The verdict came in a tense and racially charged case that led to anti-police demonstrations, arrests and a reorganization of the department's Street Crime Unit, to which the officers belonged.

But litigation over the shooting might not be over. After the verdict, Mary Jo White, the United States attorney in Manhattan, announced that her office, which has been monitoring the case from the start, and the Civil Rights Division of the Justice Department would review the shooting to determine whether any civil rights laws were violated. And Mr. Diallo's parents plan to file a civil lawsuit against the city. The officers could also face administrative charges within the department.

The shooting occurred about 12:40 a.m. on Feb. 4, 1999, when the four officers, all in street clothes, approached Mr. Diallo on the stoop of his building and fired 41 shots, striking him 19 times, as he retreated inside. The officers, who are white, said they had thought he had a gun. It turned out to be a wallet.

The jurors -- four blacks, including the forewoman, and eight whites -- deliberated for three days before reaching their verdict.

The officers -- Sean Carroll, 37, Edward McMellon, 27, Kenneth Boss, 28, and Richard Murphy, 27 -- were as grim-faced today when the verdicts were read as they were when the trial began four weeks ago. They hung their heads, wiped their eyes and hugged each other and their lawyers. As they left the courthouse without speaking to reporters, they walked silently past a crowd of jeering protesters.

Mr. Diallo's parents, friends and supporters sat quietly through the litany of not guilty verdicts and quickly left the courtroom. His mother's face was streaked with tears.

The jurors told Justice Joseph C. Teresi, who presided over the trial, that they did not want to speak to reporters, and they were escorted out of the courthouse.

During the trial, the officers acknowledged their mistake in shooting Mr. Diallo. The defense lawyers made the officers' testimony the centerpiece of their defense, asserting that the shooting was justified because they had believed Mr. Diallo was grabbing a gun. Officer Carroll sobbed as he described how he had realized his error and held Mr. Diallo's hand as he lay dying.

Their lawyers laid much of the blame for the shooting on Mr. Diallo himself, saying he had behaved suspiciously and had not obeyed the officers' commands to stop.

The chief prosecutor, Eric Warner of the Bronx district attorney's office, had argued that the officers, particularly Officer Carroll, had caused the fatal confrontation by prejudging Mr. Diallo as a possible rapist or robber, and never considering that Mr. Diallo might have had a right to be on the stoop.

Robert Johnson, the Bronx district attorney, said outside the courthouse, "I'm satisfied that the jurors were fair here." But he added, "This case raises a lot of issues about police tactics." People in the Bronx have been "trying to get the attention of the Police Department for some time," he said, "and this case will do it."

But others were sharply critical. Former Mayor David N. Dinkins said that he was outraged by the verdict. "This will send the wrong message to those members of the Street Crime Unit who walk around saying, 'We own the night,'" Mr. Dinkins said.

The Rev. Al Sharpton, who has been leading protests against the Police Department, said he would push the Justice Department to bring a federal civil rights case. "This is not the end; this is just the beginning," he said. "We took a detour to Albany and that detour is over."

Mr. Sharpton also asked for calm, saying, "Those who believe in Amadou should not betray his memory by acting like those who killed him."

Outside the courthouse, Kadiatou Diallo, Amadou's mother, said, "I ask for your calm and prayers." She added, "As we go on for the quest of justice, life, equality -- I thank you all."

Saikou Diallo, Amadou's father, said he was disappointed with the verdict, which he called "the second killing" of his son.

At City Hall, Mayor Rudolph W. Giuliani expressed sympathy for the Diallo family but also praised the jury for its work.

"It fills me with profound respect for being an American and for living in a country that has a trial by jury," Mr. Giuliani said.

Stephen Worth, a lawyer for Officer McMellon, also praised the system. "Police officers have to be able to do their jobs," he said. "When the evidence supports them, a jury will support them."

More than 300 people gathered to protest the verdict at the building on Wheeler Avenue in the Bronx where Mr. Diallo was killed, and they were met by a heavy police presence. The police said at least 14 people had been arrested in the Bronx, mostly on charges of disorderly conduct; in Albany, at least 15 protesters were arrested.

One of the Bronx protesters, Francisco Peguero, 22, an electrical technician who works near the building, said he could not understand how a jury had been unable to find the officers guilty of any charge. "I'm very upset, very upset about the outcome of that," he said. "You can defend yourself if it's one shot, two shots. But to unload four weapons on him, that's not right."

The trial was moved to Albany after lawyers for the officers persuaded an appeals court that the "public clamor" over the shooting made a fair trial impossible in the Bronx. The ruling meant that the jurors would be picked from a largely white population rather than the largely minority Bronx population.

The officers faced charges ranging from second-degree murder to criminally negligent homicide and reckless endangerment of bystanders.

But in Albany, race emerged as an issue from the beginning of the trial, when the defense lawyers tried to use peremptory challenges to remove three black women from the jury. Prosecutors objected, and Justice Teresi refused to remove the women. In the end, after a white woman was removed for discussing the case outside court, the jury consisted of four black women, one white woman and seven white men. In a somber daily tableau, family, friends and colleagues of the four officers sat on one side of the courtroom aisle while Mr. Diallo's parents, Mr. Sharpton, and other Diallo supporters, mostly black, sat on the other. The two sides never spoke to each other and only rarely glanced across the aisle.

Mr. Diallo, 22, worked as a peddler on 14th Street in lower Manhattan, selling videotapes, socks, gloves and other items from a spot on the sidewalk. Slightly built and genial, he was 5 feet 6 inches tall and weighed 150 pounds. He worked 12 hours a day, six or seven days a week, taking the subway from the apartment on Wheeler Avenue, which he shared with a friend and two cousins.

He had returned home around midnight on the night of the shooting and discussed a utility bill with one of his roommates. The roommate went to bed and Mr. Diallo, for reasons that are not known, went downstairs to the vestibule of the building.

At about 12:40 a.m., the four officers, all members of the Street Crime Unit, were patrolling in an unmarked car and dressed in street clothes when they turned down Wheeler Avenue. The unit had been established to patrol high-crime areas in an effort to prevent robberies, rapes, murders and assaults.

Officer Carroll was the first to notice Mr. Diallo on the stoop of the building. He testified that Mr. Diallo was acting suspiciously, peering out from the stoop, then "slinking" back. Mr. Diallo, Officer Carroll said, fit the general description of a

serial rapist who had last struck about a year earlier. But he acknowledged on cross-examination that he could not see Mr. Diallo well enough even to determine his race.

Officer Carroll said he also suspected that Mr. Diallo might have been a lookout for a push-in robber. In any case, he told his partners he wanted to question Mr. Diallo.

On cross-examination, he acknowledged that he never considered that Mr. Diallo might have had a legitimate reason for being where he was, or that he might have lived in the building. And Officer Carroll and the other officers acknowledged that they never considered the situation from Mr. Diallo's point of view.

Mr. Diallo might have been frightened, Mr. Warner said, by the sight of a car driving slowly down his deserted street in the middle of the night, and by "four big men getting out of a car with guns."

While acknowledging that they had made a mistake, the officers said Mr. Diallo was largely to blame for his death. He did not respond to their commands to stop, they said, and did not keep his hands in sight. Instead he ran into the vestibule of his building and began digging in his pocket, they said, and then turned toward the officers with something in his right hand. They said they thought it was a gun and began shooting, setting off a chaotic hail of ricocheting bullets and muzzle flashes that made it seem as if they were in a firefight.

When Mr. Diallo finally slumped to the floor, his wallet fell out of his right hand. There had been no gun.

In his closing argument, Mr. Warner suggested that Mr. Diallo may simply have been reaching for his wallet to hand it over to what he thought was a gang of robbers. Or perhaps, Mr. Warner said, he was trying to show the officers his identification. The officers' snap judgment about Mr. Diallo when they first saw him from their car, and their failure to think through the situation, showed a recklessness and complete lack of concern for Mr. Diallo's life that made them culpable for his death, Mr. Warner asserted.

"Amadou Diallo was unarmed, doing nothing wrong, and he was minding his own business," Mr. Warner said. "In the mindset they had, that man was doomed from the minute they saw him."

All four officers testified at the trial, and each told a similar story. There was one other eyewitness, Schrie Elliott, a woman who lived in the neighborhood, but her accounts of the shooting were contradictory on several major points. The defense attorneys called her as a witness because she had told a television interviewer that she had heard one of the officers shout, "Gun!"

But because she refused to talk to the lawyers for the officers before the trial, they were surprised when she testified that the officers got out of their car with their guns drawn and, without shouting any warnings, began firing on Mr. Diallo. The lawyers then had her declared a hostile witness so that they could try to discredit the parts of her testimony that were unfavorable.

In the end, the jury had to depend largely on the officers themselves for an account of precisely what happened in the moments that led up to the shooting and the shooting itself.

Photos: Kenneth Boss, right, and Sean Carroll, after their acquittal yesterday in the shooting death of Amadou Diallo. (Pool photo)(pg. A1); Demonstrators near the Albany County Courthouse held up their wallets yesterday to protest verdicts in favor of four New York City policemen, who said they thought that Amadou Diallo's wallet was a gun. (Associated Press); Edward McMellon, left, and Richard Murphy leave the courthouse after being found not guilty of all charges in the death of Amadou Diallo. (Agence France-Presse); (Associated Press); Amadou Diallo, 22, was shot to death on Feb. 4, 1999. (pg. B6)