

# HUGE BRASS BALLS AND A BURN IN THE BAY: BART SHOOTING VERDICT

Sundown will be bouncing in off the water soon. There is probably a false lull except on the arterials leaving. But there is talk of a burn by the bay tonight. A city on flame from the ill will between the black and the blue. The verdict is, inexplicably, involuntary manslaughter in the Oakland Bay Area Rapid Transit subway execution of young Oscar Grant by cop:

A jury found former BART police Officer Johannes Mehserle guilty today of involuntary manslaughter in connection with the New Year's Day 2009 shooting of an unarmed train rider, finding that he had acted with criminal negligence when he fired a single shot into Oscar Grant's back at the Fruitvale Station in Oakland.

Within minutes of the verdict being read, the city was preparing for the the slow burn to lead to explosion:

3:30 p.m. City asks residents/merchants to prepare for possible violence

Police are advising residents to park cars in garages or a secure location if possible. Many streets in downtown are being closed off.

Residents and merchants should remove or secure large trash cans that are on the street. To report crimes in process, call 911 or 510-777-3211 from a cell phone.

There is reason for concern. The facts are incendiary. Kevin Drum hit it pitch perfect:

Of course, this understates the case a wee bit. Mehserle, along with several other BART cops, had Grant pinned face first on the ground when he very deliberately pulled out his gun and shot Grant in the back. Mehserle's defense is that he meant to pull out his taser but mistakenly pulled out his gun instead. This is, needless to say, pretty hard to accept, and there's little question that there's a jury anywhere in the country that would have bought this story from anyone who wasn't a police officer. You can judge for yourself in the cell phone video taken by a witness (the clearest view starts around the 1:45 mark).

I hardly even know what to say about this. I wasn't in court and I wasn't on the jury, so I didn't hear all the evidence. But for chrissake. Look at the video. Mehserle didn't look confused and modern tasers don't feel much like service revolvers. And it's not as if he was acting under extreme duress. At most there was a brief and perfunctory struggle, after which Mehserle calmly raised himself up while Grant was pinned to the ground, drew his revolver, and shot him.

It really is pretty much exactly that. Oakland knew. They knew from the first second. Now their justice has been taken by a jury with no blacks. Down south in Hollywood. Taken as blatantly as Oscar Grant's life.

On a corollary, you have got to admire the balls on Mehserle's attorney, Michael Rains, who talked his client into trying to pull back the manslaughter lesser included charges from consideration by the jury and send them to deliberate up or down on second degree murder.

Legal experts called the ruling a victory for the prosecution. The defense had sought to rule out the manslaughter

counts, but Judge Robert Perry said jurors – who are scheduled to hear closing arguments today – had enough evidence to consider them in connection with the shooting of unarmed train rider Oscar Grant.

“The defense wanted all or nothing, betting that the jury would not find him guilty of murder,” said Laurie Levenson, a former federal prosecutor who teaches at Loyola Law School in Los Angeles. “This gives the jury a compromise position.”

Yeah, that is the play, but it is a tad more bare knuckles hairy than that sterile explanation. See, a client doesn't make that decision without some, um, input from his lead defense lawyer.

That's a big time play. Because if you misread the jury (and whoo boy is that easy to do; juries are fucking loopy), and if they don't like your guy or you case as well as you thought, you just walked your client head first into a top count conviction for second degree. Probably a lot less tense when your client is a cop. Being tried in LA for shooting a black kid in Oakland. But still...

Guess the prosecution didn't think the jury would return on second either, because they fought tooth and nail to keep the lesser included in the jury verdict set. And that is what the court did, so Mike Rains did not have to stand in the well of the court next to his client and wait. Wait for the jury to come in. Wait to see if your move to put your client's ass on the big line for the top count, all or nothing, was genius or wanton malpractice. Wait for the jury to get seated. They don't look at you as they file by on their way to the jury box when returning with the verdict. They know and you don't. And they will not risk giving it away by making eye contact. A procession of twelve druids. It is eery silent.

Then you wait as the judge and clerk go through the formalities for the reading of the verdict. It takes forever. It is absolute hell. But today was a good day for Michael Rains and his client Mehserle. But a bad day for the City of Oakland. Now the night comes.