

U.S.

## ***Milwaukee Officer Is Acquitted in Killing of Sylville Smith***

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Body camera footage was shown during the trial of a Milwaukee police officer, Dominique Heaggan-Brown. It showed Officer Heaggan-Brown running behind Sylville K. Smith after a traffic stop last August.

*Credit: Milwaukee Police Department/Milwaukee Journal-Sentinel, via Associated Press*

MILWAUKEE — The latest high-profile prosecution of a police officer for a fatal shooting ended in an acquittal on Wednesday, as jurors cleared a Milwaukee officer of wrongdoing in the death of a 23-year-old man, Sylville K. Smith.

The shooting in August touched off two days of protests and violence on this city's north side.

The verdict — the second acquittal in a week of a police officer facing criminal charges for a fatal shooting — was announced in a tense, emotional courtroom after less than 10 hours of deliberations. Upon hearing the jury's decision, Mr. Smith's family gasped and burst into tears.

The defendant, Dominique Heaggan-Brown, a Milwaukee officer for three years until he was fired last fall, had been charged in December with first-degree reckless homicide, a crime that could have meant as many as 60 years in prison.

After the verdict, Mr. Smith's family stood outside the courthouse, visibly stunned. "I feel like no matter what it is, these police officers all over the world, they can just literally murder you," said a stepsister, Shannon Daniels. "I feel he blatantly shot Sylville. I feel it was intentional."

Jonathan Smith, a lawyer for Mr. Heaggan-Brown, said the former officer was relieved by the outcome. "He believed all along that he was justified in what he did," Mr. Smith said, describing the case as one that involved a man with a gun, rapidly shifting events, and a matter of seconds to make enormous decisions. "It wasn't a situation that he asked to be put in."

Mr. Heaggan-Brown's mother, Karen Morgan, said, "I can't make this better for them," alluding to the family of Sylville Smith, "but I know my son is not a murderer."

Mr. Heaggan-Brown faces unrelated sexual assault charges, and a separate trial is planned for August. "Now he's ready to fight his next battle," Ms. Morgan said.

Despite visible public anger and attention from the news media toward police shootings in recent years, criminal prosecutions of the officers involved remain rare, and convictions even more so.

Last week, a jury in St. Paul acquitted Officer Jeronimo Yanez of criminal charges in the shooting death of Philando Castile, a case that drew national attention when Mr. Castile's girlfriend live-streamed the aftermath. Last month, jurors in Tulsa, Okla., acquitted Officer Betty Jo Shelby of manslaughter in the fatal shooting of Terence Crutcher, an unarmed black man.

In Cincinnati, a jury will begin its fourth day of deliberations on Thursday in the retrial of another officer, Ray Tensing, in the fatal shooting in 2015 of a motorist, Samuel DuBose. The first trial ended in a hung jury.

The fatal encounter between Mr. Smith and Officer Heaggan-Brown, both African-Americans who were in their 20s, unfolded quickly last August.

Officer Heaggan-Brown and another officer were working in a residential neighborhood in Milwaukee when they approached Mr. Smith, who they suspected was involved in a drug deal. As they exited their squad car, Mr. Smith, who was armed with a handgun, darted away and ran into a yard with a chain-link fence.

When Mr. Smith reached the fence, he threw his gun over it, just as Officer Heaggan-Brown fired at him, a shot that hit Mr. Smith in his right arm.

Mr. Smith fell to the ground. Moments later, Officer Heaggan-Brown, standing several inches away, fired again, striking Mr. Smith in his chest. An official from the Milwaukee County Medical Examiner's Office said the second shot had traveled through Mr. Smith's heart and a lung and was "not survivable."

The entire episode lasted about 12 seconds.

Using frame-by-frame video from the officers' body cameras, prosecutors had argued that while the first shot fired by Officer Heaggan-Brown was reasonable, the second shot was not.

The video showed that when the officer fired the second shot, Mr. Smith no longer had a gun and was on the ground — "hands up, with no place to go," said the prosecutor, John T. Chisholm.

Officer Heaggan-Brown had no reason to fear for his life once Mr. Smith was unarmed, wounded and unable to run away, Mr. Chisholm said during his closing argument. "Shooting someone point blank when he's on the ground is utter disregard for life," he said.

But the defense said that Officer Heaggan-Brown was merely following police procedure when he fired a second time. Jonathan Smith, the officer's lawyer, told jurors that officers are taught to use the "one-plus rule" — or to expect that if a person has one weapon, he might have another.

Officer Heaggan-Brown had been trained to use deadly force until a suspect was no longer a threat, Mr. Smith said. "A gunfight doesn't end until the threat is stopped," he added.

Officer Heaggan-Brown, 25, did not testify. But he told investigators in an interview after the shooting that he had guessed that Mr. Smith was involved in a drug deal because he was driving a car with an out-of-state license plate.

Officer Heaggan-Brown said that during the chase, he had ordered Mr. Smith to show his hands, and fired a second shot when he thought he saw one of Mr. Smith's hands move "toward his waist."

Jurors relied on video from two body cameras: one worn by Officer Heaggan-Brown and another by the second officer on the scene, Ndiva Malafa.

On Monday, the jury was told it could find Officer Heaggan-Brown guilty of the original charge, first-degree reckless homicide, or of either of two lesser charges: second-degree reckless homicide, which carries a maximum of 15 years in prison, or homicide by negligent operation of a dangerous weapon, punishable by as many as five years in prison.

After the shooting, angry demonstrators took to the streets of Milwaukee, setting fire to businesses and throwing rocks at the police. Gov. Scott Walker declared a state of emergency and activated the state National Guard.

After the verdict, city leaders and family members called for calm.

“I know this was a very difficult case,” Mayor Tom Barrett said.

Sylville Smith’s father, Patrick Smith, called for a peaceful response. “I want the community to calm down and come together,” he said.

David B. Owens, a lawyer for the Smith family, said he had filed a lawsuit against the City of Milwaukee, seeking “some sort of redress for the actions of Officer Heaggan-Brown.”

Officer Heaggan-Brown was fired in October from the Milwaukee Police Department on unrelated sexual assault charges.

The night after the shooting of Mr. Smith, prosecutors said, Officer Heaggan-Brown went to a bar, met a man, drank heavily and “bragged about being able to do whatever” he wanted “without repercussions.”

According to prosecutors, later that night, Officer Heaggan-Brown sexually assaulted the man. In the morning, Officer Heaggan-Brown left the man at a hospital and texted a superior at the Police Department that he had made a mistake and needed “to handle this in the most secret and right way possible.”

He has pleaded not guilty to those charges.

*Correction: June 21, 2017*

*An earlier version of this article, in one instance, misstated who fired shots in the fatal encounter between Sylville K. Smith and Officer Dominique Heaggan-Brown. It was Officer Heaggan-Brown, not Mr. Smith.*

Kay Nolan reported from Milwaukee, and Julie Bosman from Chicago.

A version of this article appears in print on June 22, 2017, on Page A1 of the New York edition with the headline: Ex-Milwaukee Officer Cleared in Killing of Man Who Tossed Gun.