

# Forcillo granted bail pending appeal of conviction

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TORONTO -- A Toronto police officer sentenced to six years for gunning down a teen on an empty streetcar three years ago has been granted bail while he appeals the conviction.

The appeal judge, Justice Eileen Gillese, said in her decision that Const. James Forcillo poses no threat to public safety, as there's no risk he would commit another offence.

Gillese noted that until Thursday, the Crown consented to bail being granted every time the issue arose, including after Forcillo, 33, was convicted of attempted murder in January in the death of 18-year-old Sammy Yatim.

A condition of Forcillo's bail is that he surrender himself on Nov. 9. Gillese said that before that date, the Crown and defence lawyers should update the presiding judge on the status of the appeal. If the appeal isn't ready to be heard, Gillese said the surrender date can be modified.

Gillese ruled that, despite the seriousness of Forcillo's offence, "fully informed members of the community" will "objectively" understand that Forcillo's release doesn't go against the public interest.

At sentencing on Thursday, Justice Edward Then said Forcillo abused his authority in a way that undermines public trust in law enforcement and the justice system.

Then said that in letting loose a second volley of shots on Yatim in July 2013, Forcillo committed an "egregious breach of trust" and his sentence must serve as notice to other police officers.

Both sides were in appeal court shortly after the sentencing as the defence applied for bail pending appeal.

The defence argued that Forcillo should be granted bail because he wouldn't be likely to reoffend given that the conditions under which he shot Yatim would not be repeated.

After the sentencing, Toronto police suspended Forcillo without pay, police spokesman Mark Pugash said. And Police Chief Mark Saunders said in a statement that Forcillo still faces a disciplinary matter in the Toronto Police Service Tribunal, but declined to comment on the criminal case.

The outrage over Yatim's death, which was captured on cellphone video, prompted Saunders' predecessor to launch a review of officers' use of force and their response to emotionally disturbed people.

Then cited the video as "powerful evidence" that what Forcillo said occurred on the streetcar that night did not actually happen.

Forcillo did not mistakenly believe that Yatim was getting up after being struck with a first volley of bullets, as the officer testified in court, Then found. Instead, he based his decision to fire again entirely on the fact that Yatim had managed to recover his knife, he said.

Under police training, that alone would not justify shooting a suspect, the judge said. The second volley of shots was "not only contrary to (Forcillo's) training, but unreasonable, unnecessary and excessive."

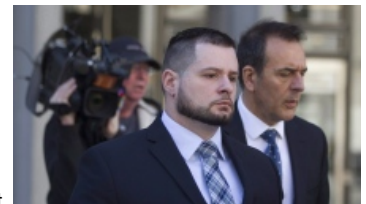
But in their application for appeal, the defence suggested that the shots should not have been separated into two separate volleys, and that there shouldn't have been a separate charge for the last six shots because there was less than six seconds' pause between the first and second round.

Gillese, in her decision to grant bail, found that to be a strong enough reason for an appeal.

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## PHOTOS



Const. James Forcillo leaves court in Toronto on Monday, May 16, 2016, after a suspension in his sentencing hearing. A Toronto police officer convicted of attempted murder in the shooting death of a troubled teen on an empty streetcar is expected to learn his fate today. THE CANADIAN PRESS/Chris Young