

Judge sentences Forcillo to 6 years in prison in fatal shooting of Sammy Yatim

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TORONTO -- A Toronto police officer who gunned down a troubled teen on an empty streetcar three years ago abused his authority in a way that undermines public trust in law enforcement and the justice system, a judge said Thursday in sentencing him to six years in prison.

In letting loose a second volley of shots on 18-year-old Sammy Yatim, Const. James Forcillo committed an "egregious breach of trust" and his sentence must serve as notice to other police officers that they should open fire "only as a last resort," Justice Edward Then told a Toronto court.

The sentence "should not be taken to reflect adversely on the well-deserved reputation of the Toronto Police Service nor diminish in any way the respect and support individual police officers deserve for the dangerous and important work they do," he said.

"However, when a police officer has committed a serious crime of violence by breaking the law which the officer is sworn to uphold, it is the duty of the court to firmly denounce that conduct in an effort to repair and affirm the trust that must exist between the community and the police to whom we entrust the use of lethal weapons within the limits prescribed by law."

Murmurs rippled through the packed courtroom as Then delivered the sentence. The disgraced police officer, wearing a dark suit, stood straight and stone-faced as he was handcuffed.

Yatim's parents looked at Forcillo, then turned to one another in silence. But outside the courtroom, Sahar Bahadi, Yatim's mother, said she remained outraged.

"He destroyed our family, he will destroy our lives," she said. "But he didn't show any kind of remorse."

"I am always angry. Since I lost my son, I am always angry. I have screams inside me and I have to control myself."

His father, Nabil Yatim, said he hopes the ruling will bring about change so that no other family has to suffer as theirs has.

Yatim's death on July 27, 2013, sparked public outrage in the city after a cellphone video of the shooting went viral.

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

The judge spent almost 90 minutes dissecting the evidence that came to light during the trial, delivering a series of stinging rebukes to Forcillo's conduct, saying his actions constituted "a fundamental failure to understand his duty to preserve all life, not just his own."

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."

What's more, "at no time prior to the second volley did Officer Forcillo attempt to communicate with Mr. Yatim, notwithstanding that he had obviously been injured by the first volley," he said.

"There was ample opportunity for Officer Forcillo to communicate with Mr. Yatim by engaging in verbal de-escalation or to issue commands in accordance with his training in order to allow Mr. Yatim to relinquish his knife."

Forcillo's lawyer, Peter Brauti, said an appeal has already been filed on the conviction and sentencing.

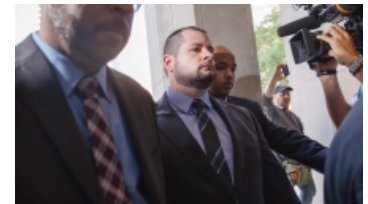
"It wasn't how we saw the nature of the offence," Brauti said.

Both sides were in appeal court later Thursday 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. The appeal judge, Justice Eileen Gillese, said she would make her decision about bail by Friday morning.

Mike McCormack, president of the Toronto police union, called the entire case a tragedy.

PHOTOS



Constable James Forcillo arrives at a Toronto courthouse on Thursday, July 28, 2016 to be sentenced for the attempted murder of 18-year-old Sammy Yatim in 2013. THE CANADIAN PRESS/Michelle Siu



Toronto teenager Sammy Yatim is shown in a photo from the Facebook page 'R.I.P Sammy Yatim.' (Facebook)

"We go out there and do our professional job each and every day, and this decision is under appeal," he said. "This is a tragic day for the Forcillo family, the Yatim family -- there will never be any good outcome from this, it's tragic all around."

After the sentencing, Toronto police suspended Forcillo without pay, according to spokesman Mark Pugash.

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 last three years have been difficult for everyone involved, including the families of Sammy Yatim and James Forcillo. The Toronto Police Service will continue to protect and support the public, and each other, and I am certain members will continue to do their jobs professionally and with respect," he said.

The outrage over Yatim's death prompted Saunders' predecessor to launch a review of officers' use of force and their response to emotionally disturbed people.

Then rejected the defence's assertion that Forcillo should not be subjected to the mandatory minimum sentence of five years in prison for the attempted murder conviction. But he also said the Crown's request that the officer spend between eight to 10 years behind bars was "unreasonable."

The judge said he took into account Forcillo's overall "positive" character and lack of criminal record, and noted it was the only time the officer has fired his gun in his 3.5 years with the force.

That Forcillo will likely lose his job and will spend his time in prison in protective custody are also considered mitigating factors, Then said.


But he also found the aggravating factors -- including that Forcillo failed to follow his training or use de-escalation techniques -- "substantially outweigh" the mitigating factors.

Forcillo's lawyers, who had argued for house arrest instead of a prison sentence, filed a constitutional appeal, arguing the mandatory minimum was never intended to apply to peace officers who legitimately carry a gun at the behest of the state in order to protect society.

Prosecutors argued the mandatory minimum is meant to apply to everyone and that police officers shouldn't get special treatment. They also argued that Forcillo's case appears to be "among the most egregious examples of unjustified violence by a police officer in Canada."

Forcillo had been out on bail since being charged, but was taken to a holding cell in the courthouse immediately after sentencing.

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