

VIDEO A 'GAME CHANGER' FOR POLICE COURT CASES, LIKE FORCILLO

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FIRST POSTED: SUNDAY, AUGUST 28, 2016 03:57 PM EDT | UPDATED: SUNDAY, AUGUST 28, 2016 04:02 PM EDT



Sammy Yatim is seen in surveillance video on a TTC streetcar moments before he was shot dead by Toronto Police Const. James Forcillo. (Screengrab)

Article

TORONTO - Video is “absolutely a game-changer” in court cases involving police officers accused of brutality, a veteran civil lawyer says.

Julian Falconer spoke recently after Toronto Police Const. James Forcillo was sentenced to six years in prison for the shooting of knife-wielding Sammy Yatim on a downtown streetcar in July 2013.

“Look at what happened here. Officer James Forcillo testified that Yatim — who was paralyzed and dying — was trying to get back up again,” Falconer said, adding the judge in the case had to reject that testimony.

“What would have happened if we didn’t have the benefit of the video?” said Falconer, who represents Yatim’s mother, Sahar Bahadi, in a lawsuit against Toronto Police.

“It’s absolutely close to impossible to convict police officers (in brutality cases) without video. Every time a police officer takes the stand, and their badge and credibility is marshalled against (other witnesses), ... that was a huge advantage.”

Video changed that, he said.

Falconer noted that video exposed lies in the police account when Robert Dziekanski died in 2007 after being hit by a Taser several times in the Vancouver airport.

“In both the Dziekanski and Yatim cases, video played a pivotal role,” Falconer said.

Yatim was being filmed by both observers with cellphones and the streetcar’s surveillance camera when Forcillo fired two volleys after the 18-year-old refused to drop his weapon.

While a jury acquitted Forcillo of any criminality related to the first three shots — one bullet killed the teen and another left him paralyzed — the jury ruled the second set of shots were unjustified and convicted him of attempted murder.

“There was very clear, very cogent reference to the video,” said civil lawyer Ed Upenieks, who represents Sammy’s father, Nabil “Bill” Yatim, in his lawsuit against police.

Upenieks alluded to the judge’s description of Forcillo’s “excessive, unreasonable use of force” against Yatim.

“That video doesn’t lie,” Upenieks said. “The video, four different ones, were compiled together, second by second, movement by movement, so that everyone could see what actually happened, instead of what someone thought happened.”

Forcillo’s lawyer, Peter Brauti, said his client faced an uphill battle because the public was overwhelmingly against the officer after watching videos of the shooting for years before his trial began last fall.

“This was a trial by YouTube,” Brauti said.

Falconer countered that “what the defence is really saying ... is that their options are very limited.

“Their objection is there are too many photographs and videos of what the officer did.”

Video played a key role in these three high-profile cases in Toronto:

•**CHRISTIAN DOBBS:** This Toronto cop was acquitted last month of allegations he assaulted a chef. Justice Bonnie Croll said in-cruiser video depicting the violent arrest was “shocking” but didn’t tell the whole story.

Croll said she was left with reasonable doubt that Const. Christian Dobbs used excessive force when he repeatedly struck burly Ray Costain as he lay face down on a downtown sidewalk on April 12, 2010.

•**RAYMOND COSTAIN:** In March 2013, the same in-cruiser video compelled Justice Ford Clements to stay seven charges against Costain. Clements said he didn’t believe the many officers who testified that Costain was resisting arrest, largely due to their own on-board video.

•**CHRISTOPHER HUSBANDS:** Video captured the shocking Eaton Centre murders by Christopher Husbands, who gunned down Nixon Nirmalendran, 22, and Ahmed Hassan, 25, on June 2, 2012. Husbands’ bullets also wounded five others and triggered a stampede of panicked shoppers, who injured a pregnant woman. Some 750 people witnessed the gunfire in The Urban Eatery.

Husbands, now 27, was convicted of two counts of second-degree murder and five counts of aggravated assault. He was sentenced to life in prison with no parole for 30 years.