



BREAKING

Court dismisses Const. James Forcillo's appeal of conviction in Sammy Yatim case

Toronto police constable appealed both his conviction and his 6-year prison sentence

Lorenda Reddekopp · CBC News · Posted: Apr 30, 2018 12:07 PM ET | Last Updated: 5 minutes ago



Toronto police Const. James Forcillo will learn the result of his appeal of a six-year sentence for the attempted murder of Sammy Yatim in 2013. (Nathan Denette/Canadian Press)

An Ontario court has dismissed Toronto police Const. James Forcillo's appeal of his conviction in the shooting death of 18-year-old Sammy Yatim.

In 2016, the trial judge sentenced Forcillo to six years in prison for attempted murder following an unusual verdict by the jury.

It found Forcillo not guilty of second-degree murder, but guilty of attempted murder, in the death of the 18-year-old who was holding a knife inside an empty streetcar in the early morning hours of July 27, 2013.

Forcillo was one of the first officers on scene that night and the only one to fire his weapon. He fired an initial three shots, which caused Yatim to fall to the floor of the streetcar, then fired a second volley of six more shots.

Police had responded to reports of a passenger carrying a weapon on a streetcar on Dundas Street West in downtown Toronto. The fatal shooting, and the fact that it was caught on video, sparked a debate across the country on appropriate use of force by police.

- [Toronto police Const. James Forcillo's appeal set to begin, new evidence may be coming](#)
- [Toronto constable guilty of attempted murder in 2013 streetcar shooting of teen](#)

Forcillo's lawyers submitted a 54-page document to the appeal court, raising several questions about the trial and sentence by Ontario Superior Court Judge Edward Then.

They argued it made no sense to allow for the nine shots fired to be separated into two separate criminal charges.

Charges were confusing

In a factum submitted to the court, the lawyers argue that Forcillo "appears to be the only one in the history of the commonwealth" to be found not guilty or murdering someone, yet guilty of attempting to murder the same person "during the course of the same transaction."

They write "As a matter of common sense, the suggestion that an accused can be legally justified in killing someone, but criminally liable for attempting to kill that same person within the span of less than 10 seconds is unfathomable."

Forcillo's lawyers also disputed the sentence he received, of six years, a year more than the mandatory minimum, which they argue shouldn't have applied in this case, as he was carrying a firearm as part of his job, not as someone intending to break the law.



Forcillo was found guilty of attempted murder and sentenced in 2016.

Forcillo's appeal lawyers argued information about Yatim's mental state should have been allowed to be heard by the jury during the trial, including the theory of "suicide by cop" — that Yatim wanted to be killed that night.

Crown: judge's rulings did not prejudice jury

But the Crown argued in its written statement to the court that the judge "properly exercised his discretion and committed no error in excluding this evidence," saying the judge's rulings did nothing to prejudice jury members against Forcillo.

The three Crown lawyers also agreed with the judge's decision to counsel jury members on both the charges of murder and attempted murder, however unusual: "The jury had to determine whether all nine of the shots that [Forcillo] fired were justified, or if the force used ... at some point became excessive."

Forcillo was initially released on bail pending the results of his appeal, though he's currently behind bars at a Toronto-area jail. His bail was revoked after he was charged with perjury and attempting to obstruct justice in connection to allegedly breaching his bail conditions.

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