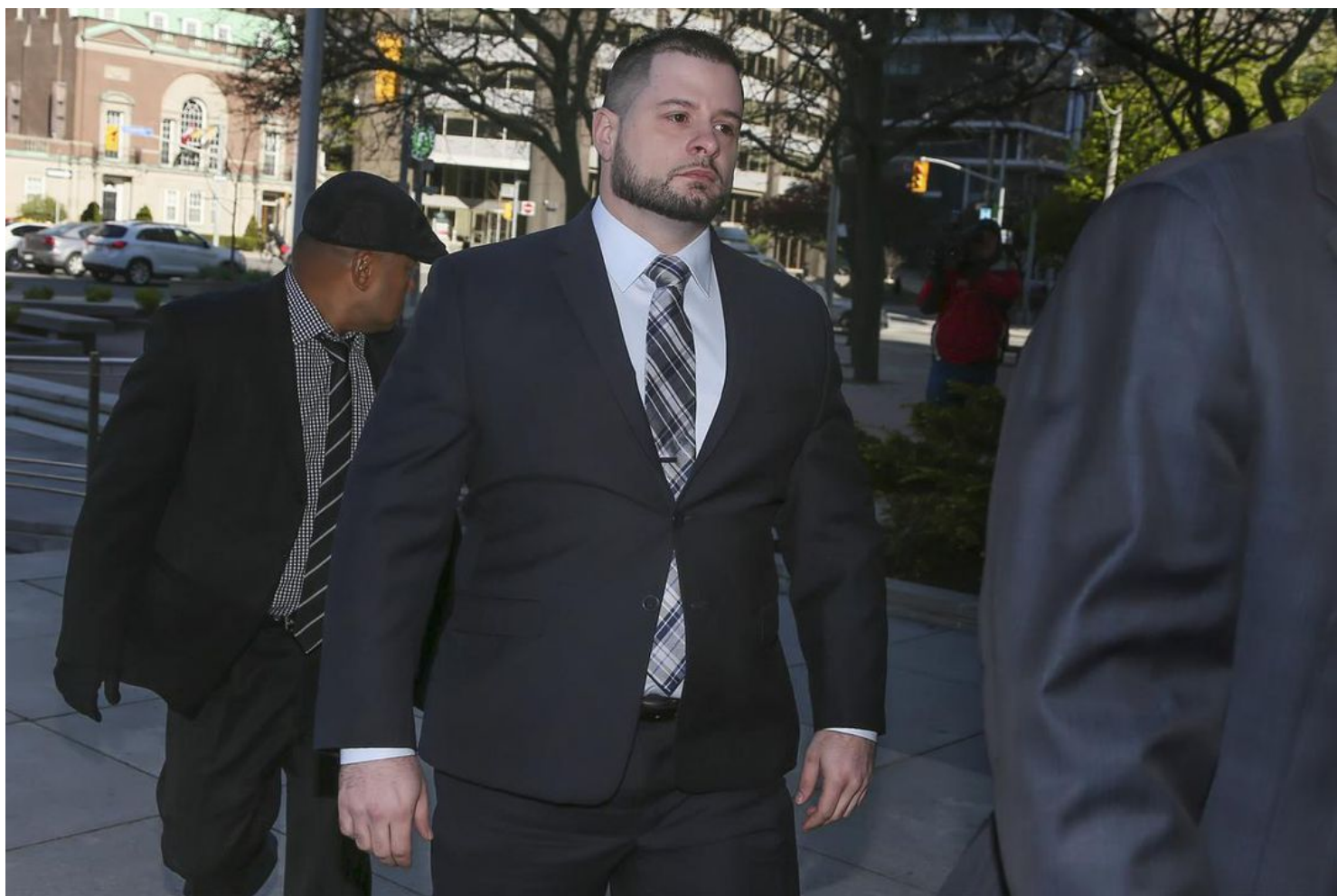




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Decision Monday for Const. James Forcillo's appeal in Sammy Yatim shooting

Toronto police officer appealed his conviction and six-year prison sentence after being found guilty of attempted murder in the 2013 shooting death.



Const. James Forcillo is currently behind bars after being charged late last year with breaching his bail conditions. A decision is expected Monday in the appeal of his

conviction for attempted murder in the 2013 death of Sammy Yatim. (ANDREW FRANCIS WALLACE / TORONTO STAR FILE PHOTO)

By **WENDY GILLIS** Crime Reporter

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The Ontario Court of Appeal will release its decision Monday in Const. James Forcillo's appeal of his [2016 conviction for attempted murder](#) for the 2013 shooting of [Sammy Yatim](#).

The Toronto police officer also appealed [the six-year prison sentence](#) handed down by the trial judge, Justice Edward Then, which was one year more than the mandatory minimum sentence for attempted murder with a firearm.

Yatim, 18, was shot to death by Forcillo on a downtown streetcar on July 27, 2013. The teen died moments after exposing himself and wielding a small knife on the busy Dundas West streetcar, prompting the occupants to rush off when the streetcar stopped near Grace St.

[Less than a minute](#) after arriving on scene, Forcillo fired at Yatim in two distinct volleys. The first three rounds — including a fatal shot to Yatim's heart — were followed less than six seconds later by six more shots.

The separation was vitally important to Forcillo's conviction: a jury found the officer not guilty of second-degree murder in connection to the first volley, but convicted him of attempted murder for the second, which Forcillo fired as Yatim lay on the floor of the streetcar, paralyzed and dying.

At a Court of Appeal hearing last fall, Forcillo's lawyers argued the shooting should have [never been divided into distinct charges](#), because it was one continuous event.

“What came to be known as the two volleys of shots were so inextricably intertwined that they formed part of a single continuous transaction,” lawyer Michael Lacy argued before the panel in requesting an acquittal or a new trial.

Crown lawyer Susan Reid countered that an acquittal of second-degree murder and conviction of attempted murder were [not inconsistent in the case](#), noting that the “defences are different and the circumstances were different.”

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Forcillo's lawyers made a series of other arguments before the Court of Appeal, including that Forcillo's six-year sentence was unconstitutional.

They argued that the mandatory minimum sentence of five years for attempted murder with a firearm was never intended for a scenario like a police-involved shooting, but rather to combat gun violence by what his lawyers called the "criminal element." Forcillo was "armed as a result of his employment," Lacy said.

Barring an acquittal or the ordering of a new trial, Forcillo has asked the appeal court for a suspended sentence.

His lawyers also requested that the court consider [allowing fresh evidence](#) to be heard at a new trial, citing a recent study examining Toronto police officers' stress response in dangerous situations. They said the study may have helped the jury better understand Forcillo's perception that Yatim was getting off the floor of the streetcar and rearming himself immediately before Forcillo fired the second volley of shots.

"Had the jury had the benefit of the evidence, the jury would have been more likely to accept that (Forcillo) honestly was mistaken about (Yatim)'s movement prior to the second volley," the lawyers wrote.

Forcillo had been granted [bail pending the appeal](#), but is currently behind bars after being charged late last year with breaching his bail conditions. The officer was found at fiancée's apartment when he should have been at home. His bail was then revoked, and a few weeks later he was [charged with perjury](#) and attempting to obstruct justice.

He is currently suspended without pay from the Toronto police force.

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