

Justice for Oscar Grant III:  
Preliminary Hearing for Johannes Mehserle  
Notes from the Courtroom Day 4

The defense team, lead by Michael Rains, continued to present their case for why Johannes Mehserle should not be facing murder charges. Court began with the continued testimony of BART officer John Woofinden who was on the stand last Thursday when court left off. During this testimony Rains tried to introduce into evidence a statement by BART officer Tony Pirone that stated that Mehserle had said aloud he only wanted to taser Oscar Grant and not shoot him. Judge C. Don Clay denied the motion because this statement by Pirone is considered hearsay. Woffinden was again prompted by Rains to try to establish Mehserle's frame of mind at the time of the murder but Woofinden stated he was unable to recall the event as it related to Mehserle's actions and thoughts but he did recall going to Starbuck's before arriving at Fruitvale station that night. Woofinden's own attorney was present in court for his testimony. Rains was able to reference a report filed by Woofinden that stated Oscar Grant was resisting arrest after he was shot. This statement appeared ridiculous in light of the hard video evidence that shows nothing of the sort and that clearly contradicts the police reports of what happened that night.

The next witness called to the stand by the defense was BART officer Emery Knudtson. Knudtson is a San Francisco officer who was called to duty in Oakland at 3 PM to provide extra support for the holiday. When asked to describe the scene at Fruitvale when he arrived Knudtson said it was "chaotic" and there was a lot of "yelling and screaming and cussing." He could not recall who sent the dispatch request or what exactly it was but that he had heard the distress call and just responded. Knudtson is the officer who actually let Mehserle use his taser since all the officers did not have tasers at the time. His taser was outfitted for use on the left-hand side of the body. Knudtson was one of the author's of the police report of what happened that night. When questioned by Assistant District Attorney David Stein on cross examination he claimed that he left some things out because he was exhausted after being up for more than 24 hours and being on duty for 20 hours. The report does not match the previously shown video evidence of what actually happened on the night Oscar Grant was murdered. The written police report of the night was shown in court to be completely flawed. It was written that there was an altercation on the platform that police were trying to subdue. There is no video footage of any fighting on the platform and no eye-witnesses other than police officers claim to have seen any fighting, just people being pulled off the train. Also the claim in the report that people were streaming off the train and that the platform was chaotic is not supported by any of the video footage and appears to be made up after the fact as part of the police cover-up.

The final witness of the day was BART officer Marysol Domenici. Domenici said in her testimony that Oscar Grant was unarmed but that he "didn't follow my command to sit" so therefore he was resisting arrest. She said Oscar Grant never sat down on his bottom and instead remained in a crouched position. She also claimed that when she approached one of Grant's friends Oscar "grabs my left arm and is holding on to me." None of this appears in any of the numerous videos shown in the court. Domenici also

stated that Michael Greer, the man seen in every video lying face down on the platform the entire time, was "very uncooperative with police." Given the video footage it is hard to understand how someone who is in a prone position for ten or fifteen minutes without moving is being uncooperative. Domenici and Officer Pirone are partners and she is visible in much of the video footage assisting Pirone and Mehserle in getting Oscar Grant and his friends against the wall and in handcuffs. She clearly has motivation to make herself and her partner look like they were following procedure and protocols. She did admit on the stand to assaulting one of the young men next to Oscar Grant against the wall of the station and that she was frustrated that people were not following her commands and treating her like an authority figure. In one of the videos she is actually seen with her taser out pointing it at people on the platform that night. Domenici stated during questioning that "she did not have regrets about the night of the murder," and that "Oscar Grant would have just been cited if he would have cooperated." She also said when asked about why she drew her taser that she "wanted to shoot someone that night." This prompted Judge Clay to ask "Who were you going to shoot?" to which she replied: "anyone who was coming at me." She will take the stand again on Wednesday to complete her testimony and face cross examination by Stein.

Today in court Michael Rains tried to make his case that "This isn't murder because there is a lack of malice." He wants to be allowed to present testimony that Oscar Grant was resisting arrest, even though there is no video that shows this, and he wants to smear Oscar's name by talking about his prior record to show "Mr. Grant's character for aggression and violence." Judge Clay said this evidence is irrelevant and cannot be admitted in court. The judge is going to allow Rains to bring into evidence slow motion video that will supposedly support his claim that Oscar Grant was resisting arrest at the time he was shot. For the time being, though, looking at the multiple videos submitted into evidence already there appears to be no justification for the claim Oscar was resisting in any way. In fact, it is looking more and more like the police are trying through their testimony and false reporting to cover up a case of cold-blooded murder.