

Justice for Oscar Grant III:  
Preliminary Hearing for Joahannes Mehserle  
Notes from the Courtroom Day 5

The fifth day of the preliminary hearing began with continued testimony from BART Officer Marysol Domenici. The procedures began with Johannes Mehserle's attorney Michael Rains finishing his line of questioning from the previous day. Rains showed a freeze frame video of the shooting and asked Domenici to comment on the scene. She was able to point out and name the three young men in the picture as well as Oscar Grant against the wall of the platform. Rains prompted Domenici by asking her if she saw Oscar Grant doing anything and she claimed that she saw him reaching for something. She also pointed out that Officer Tony Pirone was in front of Oscar and hitting one of the other young men who was "not listening to his commands." Domenici then admitted that Pirone was behaving aggressively. She also testified that she saw an Asian man throw a cell phone at the officers. This contradicts Officer John Woofinden's previous statement that it was a young woman who he had later tackled who had thrown the cell phone. Domenici went on to elaborate that when the cell phone was thrown she was "scared for her life" and drew her taser and was about to tase the man who had thrown it. At no point in this course of events did Domenici press the emergency button on her belt and she did not actually use her taser because she was afraid she would hit another officer by accident and had only learned how to use the taser in a 10 hour class in December. In the course of her testimony Domenici also admitted to using profanity because she was being cussed at and people were not listening. After Oscar Grant was shot, she remembered Officer Pirone telling the train to close its doors and leave the station despite the fact that it was a train full of eye-witnesses to what had happened on the platform. Domenici did not actually see the shooting but heard the shot, which she claimed sounded like a taser, but she also said she smelled gun smoke. In her final questions from Rains, Domenici was asked about whether she smelled drugs or alcohol on anyone that night. She said the people coming off the train seemed drunk to her but did not elaborate.

When Assistant District Attorney David Stein cross examined Domenici about why she did not call for backup or press the emergency button on her belt if she feared for her life she said it was because she did not have time. When it was revealed that Domenici has had extensive training as a BART officer Stein asked her if it was true that officers are told to stand back at an arm's length when they feel threatened. To that she replied "yes" and then he showed her the video footage where she is clearly only inches in front of the row of young men against the platform wall. Stein also used the video to ask Domenici if she could point out the people coming off the train who were drunk and she was unable to do so. The video was used again to show how her accounts of what happened did not match the video evidence of the events of that night. Stein went on to ask if Domenici was fabricating her story to support Mehserle's actions and she said "no" though clearly her testimony, like the other officers before her, does not match up to the video evidence presented in court. In his final line of questioning Stein asked about the dispatch call Domenici received telling her to come to Fruitvale. She stated that the

emergency that was called in was a misdemeanor code 242 (which is "battery", police code for fight without guns) and there was no description of how many people were involved. This type of dispatch typically does not warrant officers arriving on the scene with weapons drawn and "scared for their life."

The next witness to take the stand for the defense was the now infamous BART Officer Tony Pirone. Pirone has been a BART officer for four years and has a military background. Pirone had been interviewed several times by homicide detectives prior to his testimony in court. Pirone began by stating he clocked in at 3:00 PM and was slated to work until 4:00 AM with his partner Domenici at the Fruitvale station. He received a call on the dispatch about a fight on a train with four Black males involved. This fits with the misdemeanor code 242 for "battery". When he ran up the stairs as the train arrived he saw no fight and no gun, though in earlier statements and reports he had said he thought he had seen a gun at that time. Pirone went on to describe the scene and said that he saw a group of Black people coming at him and he ordered them to stand against the wall. When they did not comply he approached them and they asked why they were being stopped. He repeated for them to "get on the wall" and they did, though he said he saw someone get back on the train. At that point Pirone said he got out his taser because a group of people kept on walking by him. Rains asked Pirone which side of his body his taser was on and he replied his left but that he had then switched it to his right hand. This appears to be a question that was meant to establish the idea that Mehserle could have been confused himself about which side of his body his taser was on. Pirone went on to testify that everyone was yelling and cussing so he cussed back at the crowd to try to get control. He admitted to being "hostile" because no one was respecting his authority. He concluded his statement by saying he even had to pull one of the young men down by his hair because he would not listen to him.

The preliminary hearing will resume with Pirone's testimony again on Wednesday, June 3<sup>rd</sup>. By bringing Pirone to the stand the defense has shown its utter boldness in trying to justify the actions of the officers in this case. Pirone has clearly been shown in every video as being unnecessarily aggressive to the young men on the platform who are cooperating. He has even admitted on the stand to being "hostile" because he was not being respected. This is a ridiculous excuse for becoming violent. An officer like Pirone with years on the force should have more self-control than to behave in such an aggressive manner. He will certainly have more to answer for in this case if the people get their way and win the demand to charge Pirone as an accessory to the murder of Oscar Grant.

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