
Boston man gets new trial in student's killing

BOSTON (AP) — A Boston man convicted of killing a high school student he thought was a rival gang member was granted a new trial Thursday after the highest court in Massachusetts found that a rap video, in which the suspect appeared, had an “overwhelming” prejudicial effect and should not have been shown to the jury.

Lamory Gray received a life sentence for first-degree murder in the 2006 killing of 18-year-old Herman Taylor III, a Belmont High School student who had no gang connections.

In overturning Gray's conviction, the Supreme Judicial Court found that the trial judge should not have allowed the jury to see a rap video that a Boston police detective said showed Gray acknowledging his membership in a gang.

The SJC said Gray was not a featured rapper in the video, which included typical rap lyrics that appeared to glorify violence. The court also found that the officer who testified was not an expert qualified to interpret the meaning of rap lyrics.

“Balanced against the minimal probative value of the video, its prejudicial effect was overwhelming,” Justice Barbara Lenk wrote for the court in the unanimous ruling. “Although the defendant is neither of the two featured rappers, lyrics such as ‘forty-four by my side,’ accompanied by images of stereotypical ‘gangsta thugs,’ some of whose faces are covered by bandanas, could not but have had a prejudicial impact on the jury.”

Robert F. Shaw Jr., Gray's lawyer, said he was pleased with the decision. He said he found it “enormously concerning” that the rap video was introduced at the trial.

“No one believes that ‘I shot the sheriff, but I did not shoot the deputy’ by Bob Marley is a statement of actual fact,” Shaw said. “The fact that rap music is a certain genre of music and involves the typical gangster character with exaggerated lyrics does not mean that somebody who expresses that as part of a rap video song is making a statement of fact and intention about themselves.”

Jake Wark, a spokesman for Suffolk District Attorney Daniel Conley, did not immediately return a call seeking comment.

The SJC also found that prosecutors improperly relied on the identification of Gray by a man who allegedly told friends Gray was the shooter, but gave conflicting testimony to a grand jury. Gray's lawyer was not permitted to tell the trial jury about the man's failure to pick Gray's photograph from an array shown to him before a grand jury.

The court found that the judge made an error when he refused to allow the defense to use the witness' grand jury testimony, which could have had a significant impact on the jury.

“It deprived the defendant of his ability to impeach a critical witness and, thus, deprived him of a fair trial,” Lenk wrote.

Prosecutors said Gray went to Taylor's neighborhood on July 12, 2006, “on a mission” to kill a rival gang member. Witnesses testified that Taylor was approached by a man wearing a hooded sweatshirt. After the two men talked briefly, the hooded figure, whose face was partially covered, pulled out a gun and shot Taylor several times, chasing him as he ran to escape.

Christopher Jamison, a man who was in a car driving past the scene, stopped to help Taylor, but he died later that night without identifying the man who shot him. Jamison testified before the grand jury that indicted Gray, but invoked his Fifth Amendment right against self-incrimination and did not testify at Gray's trial.

During the trial, prosecutors said Gray was a member of Boston's Heath Street gang and mistakenly took Taylor to be a member of the rival H-Block gang, then shot him as part of an ongoing battle between the two gangs.

Witnesses at the trial testified that Jamison, a member of the H-Block gang, had identified Gray as the shooter. But the SJC said that testimony was “materially at odds” with what Jamison had said before the grand jury.

Shaw said the defense also should have been allowed to tell the jury about Jamison’s failure to identify Gray in a photo array.

“If they are going to be permitted to use statements of identification, the defense must be permitted in a trial that is fundamentally fair to introduce available contrary evidence which demonstrates the exact opposite,” Shaw said.

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