

# Court orders new trial in gang murder Case

By Laurel J. Sweet

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The state's highest court has ordered a new trial for a Hub lifer convicted of killing a Belmont High student while gunning for a rival gangbanger in a 2006 case of mistaken identity.

Herman Taylor III of Roxbury was only 18 when a jury found Lamory Gray shot him multiple times on July 12, 2006, as Taylor tried to run for his life on Humboldt Avenue in Roxbury. Taylor was unable to provide investigators with any clues about his killer's identity before he died hours later. The murder weapon was never recovered.

Supreme Judicial Court justices ruled today that Gray, 27, was "prejudiced" at his 2009 trial by a rap video shown jurors — "Heat Life, Nothing But a P Thang" — that prosecutors argued showed him wearing "gangsta" clothing and pledging allegiance to a Heath Street housing project street gang, as well as by Suffolk Superior Court Judge Frank M. Gaziano's decision to deny Gray's lawyer the opportunity to impeach a key witness who was overheard saying, "There goes Lamory," in a passing car, but who failed to pick Gray out of a photo array when he was called before a grand jury in 2007.

That witness, Gray's appellate attorney Robert F. Shaw Jr., told the Herald, asserted his Fifth Amendment right against self-incrimination and did not testify at Gray's 2009 trial. Still, his vague remark to a passenger in his car as he drove by the shooting scene was relayed to the jury through another witness.

"It's one of the most concerning cases I have ever handled in my career. It's one that can keep you up nights," Shaw said. "It's the fundamental right to challenge evidence that is being presented against you. This decision affirms criminal trials in this commonwealth must be fair. Nobody benefits when the government seeks to win without due regard for fairness."

Shaw said the SJC's decision turns primarily on the defense being prohibited from utilizing evidence that the primary witness was unable to pick Gray out of a photo array, while, "The prosecution was permitted to use supposed out-of-court statements made while driving past in a car that are in utter conflict."

The witness who initially recognized a "Lamory," Shaw claimed, drove past the Roxbury shooting scene "at a fairly high rate of speed, during a rainstorm, with the windshield wipers going, while there's music playing in the car, while he's

rolling a joint on his lap. And this happens in a split second.”

He also protested the impact Gray’s brief appearance in a rap video was made to have on the jury.

“Imagine what a problem it is when the government scours the Internet, finds a music video in which a defendant appears and then utilizes that video and all of its imagery — which is a form of artistic expression — to argue to the jury that Mr. Gray is a gang member with the intent to kill,” Shaw said. “No one believes that Bob Marley shot the sheriff, but did not shoot the deputy. It raises issues of constitutional rights to association and freedom of expression.”

Gray, who will likely remain behind bars pending his retrial, has been serving a life sentence without the possibility of parole at MCI-Concord since his conviction for premeditated first-degree murder and unlawful firearm possession. Shaw said Gray maintains his innocence “100 percent.”

— laurel.sweet@bostonherald.com