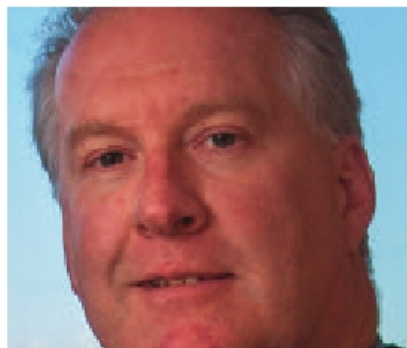
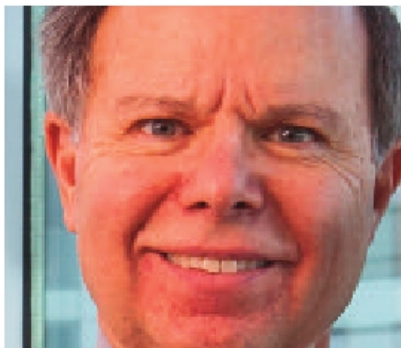
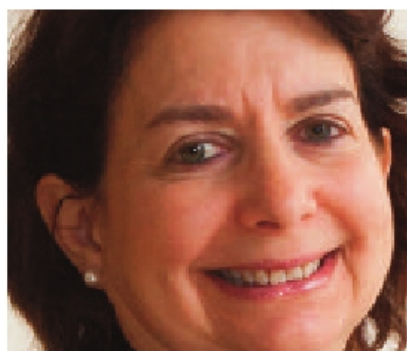


Lawyers OF THE Year

A special publication

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MASSACHUSETTS
LAWYERS WEEKLY



ROBERT F. SHAW JR.

LAW OFFICES OF ROBERT F. SHAW JR.



A rap video shouldn't tip the scales when a man is on trial for murder. That's what Robert F. Shaw Jr.'s inner sense of justice told him. And that's why the 45-year-old Cambridge attorney was so gratified when he succeeded in convincing the Supreme Judicial Court to overturn the first-degree murder conviction of Lamory Gray last November.

Prosecutors had convinced a jury that Gray was a member of the Heath Street gang and had gunned down 18-year-old Herman Taylor on a Roxbury street in 2006, thinking he was member of a rival gang. To fill in the holes in the evidence, prosecutors found a way to introduce a rap video replete with words and images glorifying street violence. Gray happened to appear in the video dressed in "gangsta" garb.

But now Gray will have a new trial thanks to the efforts of Shaw, who convinced the SJC to conclude in *Commonwealth v. Gray* that "lyrics such as 'forty-four by my side,' accompanied by images of stereotypical 'gangsta thugs,' ... could not but have had a prejudicial impact on the jury."

Q. You started your career litigating cases for Fortune 500 clients. What made you turn to the less lucrative and often thankless field of criminal defense?

A. The simple answer is that criminal law is where my heart is. Quite frankly, I credit my mother, Elaine Frederick, for instilling a deep sense of justice in me.

Q. The state's case seemed rather weak given the lack of reliable evidence identifying Gray as the perpetrator. What was the prosecution's theory of the case?

A. The government pursued this as a gang killing, utilizing the notion of gang rivalry and gang membership as a proxy to tell the jury that Lamory Gray had the motive and intent to kill. That's what is so troubling about these kinds of cases — how the government utilizes assertions of gang membership and gang rivalry to buttress cases and make assertions about motive and intent when its evidence otherwise lacks that foundation.

Q. Why was getting the rap video evidence introduced at trial so crucial for the prosecution?

A. The rap video evidence was simply one way for the government to convey that label of "gang member." You can imagine how significant that is when the government can say that this individual has the motive and intent to kill based upon what is fundamentally basic association.

Q. Do you believe it is impossible for a jury to look at rap video evidence objectively and draw from it specific indicators of the participant's intent or predisposition?

A. The problem is that, in Lamory Gray's community, that music is not unusual. And it is not intimidating to people or scary to people. If you have a jury that is drawn from different cross-sections of the community that doesn't have familiarity with that music, they may draw inferences against Lamory Gray based on that music video. The problem is that those inferences won't be grounded in common sense and experience. They will be grounded primarily in the cultural differences that make the inferences seem justified. We do not want determinations of guilt turning on the differences in cultural and community experience.

Q. How did you react when you heard that the SJC had overturned Gray's conviction?

A. I was enormously relieved and humbled because, in my view, the decision is an example of the system working. It makes the work so meaningful. It was a very special experience.

— PAT MURPHY