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## Ex-Officer Avoids Prison in Fatal Stairwell Shooting

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FORMER New York City Police Officer Peter Liang will serve no prison time for his on-duty shooting of an unarmed black man with a ricocheted bullet in a dark public housing stairwell.

Acting Brooklyn Supreme Court Justice Danny Chun reduced Liang's second-degree manslaughter conviction to criminally negligent homicide Tuesday and imposed a five-year probation sentence, as well as 800 hours of community service.

Though prosecutors in Brooklyn District Attorney Kenneth Thompson's office sought to keep the jury verdict intact, they had proposed a sentence of six months home confinement with electronic monitoring in addition to five years probation and 500 hours of community service for Akai Gurley's November 2014 death.

"This was not an intentional act. This was an act of criminal negligence," Chun said, partially granting Liang's motion to set aside the verdict.



Peter Liang leaves the courtroom after his sentencing in Brooklyn on Tuesday.

To prove second-degree manslaughter, Chun said, the prosecution needed show Liang created a "substantial and unjustifiable" risk that a death would occur and that Liang was aware of and "consciously disregarded" that risk.

The judge said that the prosecution failed to satisfy the second

prong of the test: there was no evidence that Liang was aware of Gurley's presence, and the evidence showed that Liang made a "quick reaction" when he fired his weapon, which he said amounts to failing to perceive an unjustifiable risk.

"Shooting that gun and killing somebody was probably the last

thing on his mind," Chun said.

Assistant District Attorney Joseph Alexis told Chun that his office would appeal the conviction reduction. "Akai Gurley died because Peter Liang recklessly pulled the trigger of his handgun," he told the judge.

Liang, 28, expressed no emotion while Chun read the ruling, but some spectators broke into tears.

Liang, a rookie officer fired after his February conviction, faced a 5- to 15-year maximum term on his top count of second-degree manslaughter, a C felony. Criminally negligent homicide, an E felony, carries a maximum of one to four years of incarceration.

At sentencing, Liang read a statement where he apologized to Gurley's family and expressed remorse for his death. "I wish I could undo what I did," he said.

Last month, he apologized personally to Gurley's domestic partner, Kimberly Ballinger, in a brief meeting at the Brooklyn District Attorney's Office.

In court Tuesday, Ballinger said Gurley was a "loving father" to their baby daughter.

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NYLJ/RICK KOPSTEIN

# Ex-Officer

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Melissa Butler, Gurley's girlfriend who was with him when he was shot in the pitch black stairwell of the East New York public housing complex, told Liang in court, "You took a piece of me. You took a piece of my heart."

After sentencing, one of Liang's attorneys, Paul Shechtman, a partner at Zuckerman Spaeder, said, "It was a good day for Peter Liang, who has not had very many good days in the last 16 months." He said Liang would still press an appeal because what happened was "a tragic accident and not a crime."

Shechtman said Chun and Thompson, in the context of sentencing, both "deserve enormous credit for recognizing that Peter Liang's case stands on its own facts, and it's not to be confused with incidents around the country where police officers potentially violate people's civil rights."

In a statement, Thompson said his office pressed the manslaughter case against Liang "because the evidence established that his conduct was criminal, and the rule of law demanded that he be held accountable for his actions in taking Akai Gurley's life."

"The jury, the voice of the Brooklyn community, agreed" with the prosecution's view, Thompson said. "While our sentencing recommendation was fair under the unique circumstances of this case, we respectfully disagree with the judge's decision to reduce the jury's verdict and will fight to reverse it on appeal."

While the proceedings unfolded, police barriers lined Jay Street and police and court officers stood by, telling pedestrians to keep moving.

Some members of the Chinese-American community thought Liang was being treated unfairly. About 50 supporters for Liang stood along one side, letting out chants of "No scapegoating!" and "Equal justice for all!"

On the other side, about the same number of people called for Liang's imprisonment. They held signs that said "Jail Killer Cops" and "Stop Police Terror" and chanted "Hands up to the sky! We do this for Akai!"

The Liang case came amid heightened attention on police accountability and prosecutorial will to make



FORMER NYPD Officer **Peter Liang**, center, in court Tuesday with his defense team, from left, Manhattan attorney **Robert E. Brown**, standing; **Gabriel "Jack" Chin**, a professor at University of California Davis School of Law; Manhattan attorney **Rae Downes Koshetz**, behind Liang; and **Paul Shechtman**, a partner at Zuckerman Spaeder

police cases—despite Thompson's insistence the case was merely about one instance of wrongdoing.

Gurley was shot less than a month before a Staten Island grand jury refused to indict officer Daniel Pantaleo for Eric Garner's chokehold death. When Liang was indicted, Thompson, the son of a police officer, told reporters the case had "nothing to do with Ferguson or Eric Garner or any other case" referring to a policeman's deadly confrontation with a black man in Missouri (NYLJ, Feb. 13, 2015).

Immediately after the verdict, Thompson said there was "no message" within the jury's decision and the verdict was in "no way a conviction" of the NYPD.

Thompson's office has unrelated cases pending against three officers on assault-related charges. His office also secured a bribery conviction last year against an officer who said he would help a police recruit with her job application in exchange for sex.

Chun has the pending cases; he is the judge within Brooklyn Supreme Court who is assigned to all rackets bureau major investigations and all civil rights bureau matters, which include police cases (NYLJ, April 13).

In its sentencing letter, the Brooklyn DA's office said it stood

by the conviction in a case where "an innocent life was taken recklessly and unnecessarily." But the letter acknowledged "mitigating circumstances in this case," noting Liang had chosen to become a police officer and was patrolling that night "to keep the people of Brooklyn and our city safe."

The letter also said the proposed non-incarceratory sentence was similar to the most recent case where a New York City Police officer was convicted for the deadly shooting of an unarmed citizen.

There, Bryan Conroy, in the course of a police raid targeting counterfeit merchandise, shot African immigrant Ousmane Zongo four times. He was convicted at a 2005 bench trial before then-Manhattan Supreme Court Justice Robert Straus.

Conroy, convicted of criminally negligent homicide, was sentenced to five years of probation and 500 hours of community service. A jury previously deadlocked on Conroy's culpability.

After the sentencing, Scott Rynecki of Rubenstein & Rynecki—Ballinger's attorney in pending civil litigation against the city and Liang—told reporters that Liang's manslaughter conviction "sent a message" through the country on cases involving police.

But he said Chun's actions were "clearly disturbing" and a step into the purview of the jury.

Rynecki said the developments in the criminal case would have no effect on the civil litigation that he said would scrutinize police tactics and training. He said he plans to depose Liang, among others.

Some criminal defense attorneys agreed with judge's decision.

John Arlia, of Wenger & Arlia, said Chun "clearly took into consideration the extreme pressures that police officers are under on a daily basis in overturning the top count and sentencing the officer to a non-incarceratory sentence."

Arlia's past clients included an officer in the Sean Bell shooting. Arlia's client, NYPD Detective Paul Headley, testified before the grand jury, which refused to indict him in Bell's death.

Steven Brounstein of Queens—who has represented officers including one who was acquitted by jury in the shooting death of Amadou Diallo—called Chun "a smart, measured judge. He did what he clearly thought was appropriate."

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