

## Witnesses included one civilian - Buffalo News, The (NY) - March 15, 2019 - page 7

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Prosecutors say Buffalo Police Officer Joseph Meli acted out of self-defense when he shot and killed a shoplifting suspect last year.

They also believe **Marcus Neal**, the man who died, was armed with a knife and at one point lunged at Meli during their rooftop confrontation in Black Rock.

"He was either going to get stabbed or fall off the roof," Erie County District Attorney John J. Flynn said Thursday. "At the end of the day, this was a justifiable shooting by Officer Meli."

Flynn's decision not to press charges against the second-year officer came just days after Neal's family filed court papers indicating they plan to sue the city and seek monetary damages.

In their notice of claim, Neal's father and son questioned police accounts of what happened that night in December, including the presence of a knife.

"We have another black man killed by police under what appear to be suspicious circumstances," Donald M. Thompson, one of the lawyers representing the family, said Thursday.

Thompson said the family will look at the evidence gathered by Flynn's office before filing a formal lawsuit against the city.

With Thompson sitting in the same room, Flynn outlined for reporters what led to his conclusion that the shooting on Gladstone Street was reasonable and necessary.

First and foremost, he pointed to Neal's actions on the roof, including that moment when he allegedly reached into his backpack and pulled out a 3½-inch folding knife.

Flynn said Neal began cutting his own arm with the knife and told officers they were going to have to shoot him.

At that point, officers pepper-sprayed Neal, who responded by wiping his face with snow.

"Now, he starts walking toward the officers, knife in hand," Flynn said.

At that point, Neal lunged at Meli and the officer responded by shooting Neal twice in the right side and once in the buttocks, Flynn said. He noted that Neal continued to fight officers, even after being shot three times.

When asked if Neal was seeking what police call “suicide by cop,” Flynn said he didn’t know but suggested it was possible.

Either way, he said, the shooting was necessary.

“In this case, they were 100 percent right and 100 percent justified,” the county’s chief prosecutor said of the officers on the roof that night.

Flynn said Meli repeatedly asked Neal to drop the knife and made it clear he didn’t want to shoot him. He said the officers also waited until Neal grabbed the knife to draw their guns.

Without getting into detail, the district attorney also confirmed that a toxicology report found controlled substances in Neal’s body. He declined to specify what drugs.

Flynn said Neal was taken to Erie County Medical Center immediately after the shooting and died about eight hours later.

In clearing Meli of any wrongdoing, he acknowledged the presence of only one civilian witness and his office’s reliance on police accounts of what happened that night.

“I have no reason to believe the police are not telling the truth,” he said.

Flynn said the civilian witness was also instrumental in backing up police accounts of what happened that night, including their pursuit of Neal through backyards. He said the witness also confirmed the absence of drawn guns during the chase.

“As far as I’m concerned, he’s free and clear,” Flynn said of Meli.

Meli was left with no other option than to shoot Neal, given the circumstances, said Thomas J. Burton, an attorney for the Buffalo Police Benevolent Association.

“When this officer fired, he had run out of every option,” Burton said. “He was at least 10 feet above the ground on a roof that was icy and slippery with somebody backing him away with a knife, and when he finally fired he was less than a meter away from the guy.”

Neal’s family this week indicated it plans to sue the city and, in court papers, alleged that Meli acted without provocation.

The family also questioned the existence of a knife and suggested there is no evidence that police had probable cause to believe Neal was the Wegmans shoplifter.

“I have been skeptical of that,” Thompson said of the reports of a knife. “They contend that a knife was recovered. We haven’t seen the knife, and we haven’t seen pictures of the knife.”

The officer-involved shooting in Black Rock was Buffalo’s third in a five-month period.

Neal grew up in the Niagara Falls area and had moved back to Western New York about three

months before he was killed.

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