

Fatal shooting case against officer heads to grand - Associated Press State Wire: Tennessee (TN) - January 8, 2019

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NASHVILLE, Tenn. (AP) — The case against a white Nashville police officer in the fatal shooting of a black man went to a grand jury Monday, a step punctuated by days of heated rhetoric by the attorneys.

A Nashville judge found probable cause to send officer Andrew Delke's case to the grand jury. Delke is charged in the July shooting of 25-year-old **Daniel Hambrick**, who had a handgun as he ran from the officer.

Capping a tense two-day court hearing Saturday, District Attorney General Glenn Funk said Delke's defense argued that Delke was relying on his training. During the hearing, defense attorneys had said Delke followed that training and state law when he saw Hambrick had a gun and shot him from behind during a foot chase.

Funk said that recalled a defense used in Nuremberg. He also said there were options available, adding Delke could have stopped, sought cover and called for help.

Delke's attorney, David Raybin, swung back Monday, saying Funk "has functionally declared war on our police because all of our officers are trained in an identical fashion."

"Let me be clear: Nashville police officers are not Nazis," Raybin said.

Funk quickly responded that "nothing could be further than the truth" than Raybin's claims of a war on police, saying in a statement that his office respects and supports Nashville's police department and that his Nuremberg reference meant that "individuals are accountable for their actions and cannot assign blame to their superiors or the department as a whole."

"This case is about Andrew Delke and his actions," not the police department, Funk said.

The crossfire came soon after Davidson County General Sessions Judge Melissa Blackburn advanced the case, concluding that the evidence did not demonstrate Delke's life was in imminent danger at the time. But the judge also stressed that her job was to determine probable cause, a lower bar than deciding guilt or innocence.

"The Court is mindful of the fact that police work is stressful; that officers must make split second decisions and often act in a heroic manner," the judge wrote. "This does not justify the pursuit of a man suspected of no crime following the trailing of a car not apparently involved in any criminal activity. The decision to pursue Mr. Hambrick on foot seems ... to have been prompted by mere assumptions."

Blackburn also deemed it "improbable" that Hambrick turned and pointed his gun at Delke during the chase, noting that wasn't supported by video evidence and that Hambrick appeared to be running as fast as he could.

Raybin said there's still much that remains unknown, adding a Tennessee Bureau of Investigation report on the shooting would be provided later in criminal court. He stressed that every case in Nashville that resulted in a not guilty jury verdict or exoneration was preceded by the finding of probable cause.

According to an arrest affidavit issued in September, Delke pulled into an apartment parking lot and mistook a car for one he had been following while looking for stolen vehicles and known juvenile offenders. Several people were in the area at the time, including Hambrick, who began to run, the affidavit says.

The affidavit says Delke believed Hambrick may have been connected to the car he thought might be stolen, and he chased him and yelled at him to stop. It says Delke shot Hambrick in the back, torso and the back of his head. A fourth shot missed him.

Hambrick's death sparked an outcry that led to a November ballot question asking Tennessee voters to approve the creation of a citizen oversight board for the police force. The measure passed by a wide margin.

Dozens of officers backing Delke and family and supporters of Hambrick packed the courtroom for last week's hearings.

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