

Citing evidence issues, attorney for man injured in shootout with Minneapolis police asks that Hennepin County be removed from case

LIBOR JANY APRIL 23, 2021

An attorney for a man charged with provoking a gunfight with Minneapolis police that left him seriously injured is pushing for the Hennepin County Attorney's Office to be removed from the case, arguing that prosecutors are withholding potentially key evidence about the officers involved.

Hennepin County public defender Shauna Kieffer said, in a filing on Monday, that the state has refused to turn over so-called "Brady materials," outlining any red flags about certain officers involved in the case that might affect their credibility in court. Her client, Zedrick Cooper, faces three counts of first-degree assault and one count of ineligible possession of ammunition and a firearm, for his role in the Jan. 14 shooting.

Kieffer argued that the case raises conflict-of-interest questions, since some of the officers involved in the case have previously been accused of questionable conduct, and yet are prosecution witnesses in at least 10 other criminal cases — a scenario that would cause prosecutors to "root" for the "good standing of these officers to remain intact to secure their convictions."

"There is thus a disincentive for the (county attorney's office) to disclose Brady materials about these officers," Kieffer wrote.

The county attorney's office in its response said that the defense "failed to demonstrate" why the complaint histories of more than 40 officers involved in the investigation should be part of pretrial discovery. Prosecutors argued that Cooper would have to file a freedom of information request like any other member of the public.

It's not clear when Hennepin County District Judge Nicole Engisch will rule on the defense motion.

Like other county and state attorney offices, Hennepin County is constitutionally required to turn over to the defense any evidence that calls into question the testimony of officers involved in a case. But, the public defender's office has over the years repeatedly accused prosecutors of failing to do so.

The Hennepin County Attorney's Office has said in the past that it doesn't keep a list of unreliable officers, but that it has long maintained a system that flags officers with histories of misconduct.

The request comes as police behavior is being scrutinized as never before following a recent series of high profile police killings of Black men and women in the Twin Cities and elsewhere.

Prosecutors contend that someone in a vehicle resembling the one that Cooper was driving pointed an AK-47 at two people standing outside the Full Stop gas station, at 1818 Lowry Av. N, one of whom was a police informant.

The suspect vehicle reportedly fled as police arrived on scene, leading officers on a slow-speed-chase that ended when the vehicle crashed on a snow-covered block near Dowling and N. Vincent avenues. Prosecutors alleged that Cooper shot a gun first at officers, prompting them to return more than 50 rounds of gunfire. A handgun with an extended magazine was recovered at the scene; investigators also found several spent bullet casings in the vehicle.

But Kieffer said that there were discrepancies between the police account and body camera footage, which she said showed at least five officers initially surround the car, guns drawn, and order Cooper to come out. In the footage, she said that Cooper has his hands on the steering wheel and is revving the engine, even as officers tried to break out the vehicle's windows. After one of the officers broke out the driver's side window with a flashlight, he yelled "gun!" the original criminal complaint said, "at which time Defendant fired multiple gunshots at officers." The officers reportedly ducked for cover behind their squads, and unleashed a barrage on the vehicle as they continued to yell that Cooper "has a long gun."

"At no point do any of these fifty-some body worn camera or squad videos show Mr. Cooper holding a weapon or shooting a weapon," Kieffer wrote. "A gun was recovered from the vehicle, but it was a pistol, not a long-gun."

The state Bureau of Criminal Apprehension, which is investigating the incident, identified the officers who fired their weapons as: Felix Alvarado, Cory Krautkramer, Aaron Pearson, Kyle Pond and Nathan Sundberg.

Kieffer says that while the BCA's investigation is ongoing, the agency has released a 225-page preliminary report of evidence and witness statements

which makes no mention of a "long arm rifle" being recovered or that Cooper fired a weapon.

Kieffer argued that officers unnecessarily escalated their encounter with Cooper — who is diagnosed with PTSD and bipolar disorder, the defense says — and who didn't immediately understand why he was being pulled over.

"Officers shot so many times they had to stop to assess whether they had harmed one another. At one point, an officer asks another if he should shoot out the back window. The cop responds that it would be nice, but it was close to a 'head shot.' The officer proceeds to shoot out the window," she wrote. "Maybe that's when the bullet hits Mr. Cooper in the head? Maybe it was before? Maybe it was after? With so many bullets flying, who knows?"

Cooper was struck several times; none of the officers were injured.

A separate filing said that after Cooper was taken to a nearby hospital for treatment, he was transferred to a nursing home, where remained handcuffed to his bed round-the-clock watch by two armed sheriff's deputies. He has since been booked into the county jail.

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