

Antifa 'Berkeley 5' Found Not Guilty of 5-on-1 Gang Beatdown of Trump Supporter

written by GEG | June 20, 2018



A jury in Oakland, California found all five Berkeley Antifa members 'not guilty' of misdemeanor assault of a Trump supporter, despite testimony from a police sergeant and firemen who said that all five of the accused kicked and punched the man who was being treated for an injury. Judge Alison Tucher allowed dozens of Antifa supporters who filled the audience to remain in the courtroom despite outbursts, hissing, and booing, and one of them even held a sign that urged the court to "drop the charges" against the activist group. The judge did not follow legal procedures and allowed intimidation in the courtroom.

Update, 3:45 p.m. The jury has found all five defendants not guilty of misdemeanor assault, and not guilty of assault causing great bodily injury, also a misdemeanor. About 30 supporters of the defendants were in the courtroom for the reading of the verdicts, which began at about 3:40 p.m. Some cried quietly as the clerk read the decisions for each person. After the reading, there was a brief round of applause before the judge released the jury.

One of the defendants, Scott Hedrick, said it was a relief for the case to be over.

"It's been over a year of this," he said. "It was intense. We're all just ready to move on with our lives."

The men, who met through the underground punk scene, said they now plan to hold benefit concerts to help raise money for their attorneys.

Several jurors told Berkeleyside the group found itself in agreement relatively early on regarding the not guilty verdicts. But they wanted to make sure they worked through the process carefully. They deliberated for nearly a day. Ultimately, they said, they were not convinced a crime had occurred. There were other viable explanations for what took place, they said.

Original story: March 4, 2017, brought a **day of violent political clashes** to downtown Berkeley's Civic Center Park. The event, dubbed the "March on Berkeley" by its pro-Trump organizers, was the first of **several large protests** in the city in 2017 that would pit pro- and anti-Trump activists against each other. There were verbal altercations and street brawls. And despite efforts by some to keep events peaceful, nearly every rally resulted in violence and arrests. Both sides have blamed the other for provoking the fights.

Wednesday, a trial began in Alameda County Superior Court where jurors have been asked to decide if five self-described "anti-fascist" defendants are guilty of attacking Trump supporter Moshe Daniel Quillinan during his evaluation by Berkeley firefighters for a large cut on his head that ultimately required 10 staples to close, according to testimony last week.

Prosecutor Jim Logan, with the Alameda County district attorney's office, told jurors Friday during closing arguments that he wouldn't blame them if they found Quillinan's political views repulsive. But Logan said that didn't mean Quillinan deserved to be attacked as he sat near firefighters, with a bandage wrapped completely around his head, waiting for a friend to take him to the hospital: "Just because the victim is dislikable doesn't mean the rules don't apply," Logan said. "The defendants don't get to decide ... punishment on the street. That's what the courtroom is for."

Defense attorney Shanta Driver told the jury it was Quillinan who provoked an argument with a group of passers-by that included some of her clients. She said they only tried to defend themselves, as Quillinan tried to strike them with a wooden shield, and argued that Berkeley police were "treating Mr. Quillinan as a victim, and as somebody whose rights were denied, while treating these five [defendants] as villains and perpetrators of violence."

Driver – who is representing Taylor Fuller, Scott Hedrick, Nathan Perry, Jeff Armstrong and Dustin Sawtelle – told jurors during her closing arguments Friday that they had witnessed "a political trial that's being conducted in a political era, the Trump era: an era in which lies and fantasies can be substitutes for the truth and reality."



Some of the defendants with what appears to be Quillinan's flag, which seems to have been burned, after a struggle in Civic Center Park on March 4, 2017, before the events that are the focus of this case. Photo: Daniel McPartlan



From left: Taylor Fuller, Scott Hedrick, Nathan Perry, Jeff Armstrong and Dustin Sawtelle. Photo: BAMN

From Wednesday through Friday, jurors and Judge Alison Tucher heard testimony from a parade of witnesses for the prosecution and defense. Dozens of supporters of the five defendants have been in court for the bulk of the trial. They have made their feelings known, with laughter and sighs of derision, hissing, applause and other outbursts. At

one point, a member of the audience held up a political flier, facing the jury, urging the court to “drop the charges” against the activist group.

Tucher repeatedly admonished the crowd to keep on their “poker faces,” or risk ejection, telling them it was a “courtroom, not a political rally.” She said there should be “no snickering, laughing, catcalling” or any other reactions in response to the witnesses: “You can think whatever you want to think inside your heads,” she said. But the proceedings continued to be marked by interruptions and audible reactions, despite her numerous announcements for order.

It wasn’t the only logistical challenge. Throughout the first day and much of the second, during breaks, jurors stood outside the courtroom and rode the elevator within earshot of defense supporters who loudly discussed their views and criticized the prosecution. Jurors are under strict orders to focus only on evidence presented in court, and to have no outside discussions or external exposure to the case to ensure an unbiased process. Eventually, during the second day of testimony, Judge Tucher ordered jurors to spend all breaks inside the jury room, and had the bailiff keep them separate from the crowd.

Driver, who is a national organizer for the political activist group By Any Means Necessary, or BAMN, put all five of her clients on the stand to testify about March 4. She also called on fellow BAMN leader Yvette Felarca, as well as another Berkeley activist, to testify. Much of the testimony on the defense side related to events at Civic Center Park during the March 4 rally – in the hours before the alleged assault in this case – including physical altercations and intimidation that witnesses and defendants attributed to Quillinan.



Daniel Quillinan, after he was injured in an unrelated melee before he left Civic Center Park. Quillinan said a group attacked him in the park, causing his head injury. Photo: Daniel McPartlan

Prosecutor Logan repeatedly drew the jury’s focus to the incident on Milvia Street shortly after 3 p.m. where two firefighters and a Berkeley police officer said they watched the group swarm Quillinan, as he sat on a concrete ledge near Berkeley High School, then unleashed 10-20 punches and 10-15 kicks over an estimated 15 seconds to a minute. They left when police and firefighters interrupted the alleged attack. Logan asked the jury to decide whether they believed the first responders to be liars, or the defendants who have said they are innocent.

Logan also told jurors to be skeptical of the testimony of the defendants, who all described the altercation with the “same six facts.” He asked the jury to recall the demeanors of the defendants during the three-day proceeding, their smiles and their laughter: “These defendants think it’s a joke,” Logan said.

Driver said the prosecutor’s description of events was “a real challenge to imagine.” She said her clients had shown up to Berkeley to provide medical aid during the rally, and to ensure the “free speech rights of everyone.” She said there were too many inconsistencies among the witness testimony on the prosecution side. Driver said her clients had simply tried to walk by Quillinan on their way to their car – and had not

attacked him in plain view of nearby firefighters.

"You would have to be an idiot to do something like that," she said.

The defense team had filed a motion before the trial began to ask the judge to exclude "references to 'black bloc,' 'anarchists,' 'antifa,' or 'people wearing masks' and statements about violent actions taken by anti-Trump non-defendants on that day.... Such references have no probative value and cause substantial danger of undue prejudice, confusing the issues, and misleading the jury."

Last week, throughout the week, the defense team sent out email updates to supporters and the media describing the defendants as "the Berkeley Anti-Fascist 5." They blamed police and prosecutors for engaging "in a conspiracy" with Quillinan, and described all charges as "false." The goal of the prosecution, they wrote, was "to advance Trump's agenda in the direction of a police state."

Some of the defendants testified they had known of Quillinan and his views before the March 4 rally. Others said they saw him in the park being aggressive. They testified that they had been walking to their cars when they found themselves crossing Milvia Street from Kittredge Street, and were surprised to see Quillinan sitting near some firefighters. They said they hadn't been able to see Quillinan from Kittredge because a fire engine was blocking their view. Defendants said three other men, who had joined their group a block or so earlier, walked with them, but ran off before their arrest. They also said defendant Hedrick had split off from the group before the interaction with Quillinan, then ran back to them afterward to see if they were all right.

Defense attorney Driver at one point filed a motion to ask the judge to allow her clients to sit among the audience so witnesses would have to identify them from among the crowd. Judge Tucher said that would be "unusual," and that she was "not inclined to grant that," in part because Driver had cited no related case law.

The prosecution

Berkeley Police Sgt. Jesse Grant testified that he was sitting in an unmarked vehicle with Berkeley Fire Capt. David Sprague-Livingston at Milvia and Kittredge when he heard words exchanged between the seated Quillinan and a group of pedestrians. Grant saw Armstrong punch Quillinan in the head and Perry kick Quillinan in the leg, he said. Several others then "closed in" around Quillinan, as Grant saw "arms and legs flying." Grant, the only police officer at the scene, jumped out of the car and called for back-up, then ordered the group to leave. Firefighters also yelled, to break up the fight, and the group "took off" south on Milvia. The defendants were arrested by other BPD officers a short distance down the street.

Grant said he asked Quillinan if he wanted his assailants arrested – which is required by law in any misdemeanor case – and took a statement after Quillinan said he did.

Grant watched the group as they walked a block or so south, as did fire captains Sprague-Livingston and Jonathan Fischer. Fischer testified that he first saw the group

walking from the north on Milvia from about 20 feet away. When the group got close, Fischer said one of the pedestrians said something to his patient, who responded. There was a punch and a kick, then more punching and kicking. Fischer said the group of pedestrians “threw the first punch.”

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