

Gearin, Minnesota Supreme Court owe Sgt. Vick a proper tribute

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TwinCities.com-Pioneer Press

Article Last Updated:04/17/2007 04:05:06 PM CDT

Ramsey County District Judge Kathleen Gearin's reported decision in the Vick case to ignore, rather than investigate, the report of a racist sitting juror proves that the glare of the numerous studies indicating racial bias in the Minnesota criminal justice system has blinded - not enlightened - the Minnesota judiciary to such racial bias ("Vick's killer appeals over juror's alleged slur," Pioneer Press, March 15). Moreover, the failure of the courts to address racial bias dishonors Sgt. Gerald Vick.

In a seminal study, the Minnesota Supreme Court Task Force on Racial Bias reported that racial bias permeated the Minnesota judicial system and, in particular, jury selection and decision making. Later studies have observed the results of racial bias: Minnesota leads the nation in racially disparate arrests, convictions and imprisonment rates of African-Americans.

And yet the same Minnesota Supreme Court that commissioned the task force that proved racial bias has since condoned every removal of an African-American prospective juror it has reviewed - no matter the absurdity of the reasons offered for the removal - and notwithstanding the inexplicable, startling scarcity of African-Americans in the jury pools of even Hennepin and Ramsey counties.

Gearin is the well-tutored student of Supreme Court precedent. In a series of cases involving another cop killing, the Minnesota Supreme Court twice approved a racial circumstance on a sitting jury.

In one circumstance, the Minnesota Supreme Court upheld a trial judge's decisions repeatedly forcing an overwrought lone African-American juror to continue deliberations until she capitulated to the otherwise all-white jury who insisted that she refused to summarily vote to convict the black defendant because she, too, was black.

In a second case, the Minnesota court upheld the removal of the lone African-American juror after the lone juror accurately reported a racist comment by a sitting white juror, thereby depriving the defendant of the modicum of diversity the whistle-blowing black juror offered.

Gearin refused to investigate the threat of racial bias on the Vick defendant's jury. A caller had accused a juror of having publicly declared that Katrina was God's way of killing black people. On Ramsey County Attorney Susan Gaertner's insistence and over defense counsel objections, Gearin dispatched the caller's proffer, finding no apparent suggestion of racial bias in the prosecution of a black defendant for the murder of a white police officer before a nearly all-white jury, which reportedly included an anti-black juror with Klan-worthy views.

(Of course, it would - and should - be unimaginable that a judge would tolerate a juror who believed that the Holocaust was God's way of killing Jews on the jury of a Jewish - or any other - defendant.)

The quick first-degree murder verdict of the nearly all-white jury - on facts highly suggestive of either self-defense or lesser culpability - challenges Gearin's dogged denial of possible racial influence. As a matter of both perception and fact, the defendant was under threat. In the early morning, during dark hours, without identifying himself as a police officer, the highly decorated but unfortunately very drunk, driving and physically larger police

officer Vick drove an unmarked car over a curb toward, and then chased by foot, down an alley, the smaller African-American defendant. Vick bore no indicia of police identity throughout the encounter. Vick wore plain clothes.

He had just left a neighborhood bar, undercover. Vick, therefore, intended to be indistinguishable from any other bar patron. Vick's blood alcohol level, 0.20, was twice what was then the legal limit for driving. Unfortunately for all involved that night, Vick violated police policy and the law by driving and handling a firearm at his level of intoxication.

There was no law enforcement-related reason available to justify Vick's aggression. The only pre-chase violation even suggested was the defendant's companion's late-night public urination.

These events, therefore, might reasonably be viewed as a modern-day version of an antebellum sport of Negro-hunting - with the unmarked car replacing the horse, deranged slave catchers replaced by a menacing, inebriated, unidentified large white male - but with the modern twist of the hunted black able to defend himself.

And, indeed, danger lurked. Vick teemed with adrenalin, was rankled and drunk and packed a gun. Stories abound of unaddressed and unjustified beatings, Taserings and shootings of submitting African-American citizens, of both genders, ages 11 to 85, by St. Paul officers. Vick himself had fatally shot a black teen before in disputed circumstances.

On its face, Gearin's decision also conjures a slavery analogy: 150 years ago, the U.S. Supreme Court declared that the escaped slave, and then Minnesota-abiding, Dred Scott, simply had no rights as a black man that a white person was bound to respect. Gearin explained that for her, a life sentence for a black man does not justify the inconvenience to a single white juror of being asked even a single question regarding the juror's possible racial bias.

Gearin's decision suggests deliberate blindness. In disregarding the caller, the judge ignored a plethora of recognized indicia of accuser reliability: The juror's accuser identified herself and left contact information. (This is more reliable than the inscrutable anonymous informant who regularly justifies the arrests of black men.) The caller identified the juror by name, and only the accused juror. (The caller did not offer a broadly applying description, such as the description that prompted the St. Paul police to secure DNA samples of scores of black men.) The caller also offered a basis for her accusation. (The accuser, for example, did not rely on a racial profile of the juror.)

Gearin's decision, however, can provide benefit. The death of a police officer should be a solemn occasion that reminds the entire community of common interests and community debt. In prior times, public lynchings were summary processes against African-Americans that, of course, did not consider gradations of culpability or whether a wrong even occurred.

The appeal of Gearin's decision invites the Minnesota Supreme Court to promote community bonding based on the right reasons. The Minnesota judiciary does not pay appropriate tribute to Vick by offering up the rights of others as sacrifices. Thus, the court should assure that remembrances of Vick's life and work not be colored by concerns of judicial neglect and racial bias.

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