

EAST METRO

# Yanez interview at issue as jury resumes day 3 of deliberations

By Chao Xiong (<http://www.startribune.com/chao-xiong/10646266/>) Star Tribune |

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Jurors concluded their second day of deliberations without a verdict in the trial of Jeronimo Yanez, but not before prosecutors made one last, failed attempt Tuesday to introduce audio of an interview with the St. Anthony police officer that they believe underscores his guilt in last year's fatal shooting of Philando Castile.

Jurors requested a transcript of the interview during deliberations in Yanez's manslaughter trial. It was denied, leaving them with neither a recorded nor written account of an interview that featured prominently in the prosecution's assertion that Yanez never saw a gun when he fired seven times at Castile; five rounds struck him.

The jury of seven men and five women, including two people of color, has deliberated about nine hours over two days without reaching a verdict. They will resume Wednesday morning.

In the hourlong interview with Minnesota Bureau of Criminal Apprehension (BCA) investigators, Yanez repeatedly used the pronoun "it" instead of "gun" or "firearm." Prosecutors told jurors that the language proves Yanez never saw a gun. However, prosecutors never played the video during its case, thinking it more strategic to introduce the footage last Friday during the defense's case. It is common practice to play a defendant's interview with investigators during the state's case.

"The rules of evidence clearly allow for the statement's admission into evidence during cross examination," said a written statement issued Tuesday by the Ramsey County attorney's office. "Strategically, we felt the statement would be best used for impeachment purposes on cross examination when the defendant took the stand in his own defense."

But the move backfired Friday when Ramsey County District Judge William H. Leary III criticized the prosecution's timing and refused to allow the video. Defense attorney Thomas Kelly objected to the prosecution's effort, calling it an "improper impeachment" of Yanez and asserting that the state allegedly withheld the video in order to compel Yanez's testimony.



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Officer Jeronimo Yanez is on trial for the shooting death of Philando Castile.

Prosecutor Jeffrey Paulsen renewed the request Tuesday morning after jurors re-watched two videos of the shooting and exited the courtroom.

Kelly stood to address Paulsen's offer, but quickly sat down when Leary informed him that no response was necessary. The judge ended Tuesday's proceeding with no further comment about the BCA video.

Jurors had sent Leary a note about 9:10 a.m. Tuesday asking for transcripts of the BCA interview and dashcam video from Yanez's squad showing the shooting. They also asked to re-watch the squad video and a Facebook Live video of the aftermath broadcast by Castile's girlfriend, Diamond Reynolds.

Jurors reconvened in the courtroom and re-watched both videos. But using wide discretion provided under Minnesota Rules of Criminal Procedure and case law, Leary denied them access to the transcripts without stating his reasons.

According to the rules of criminal procedure, materials allowed in the jury room are "received exhibits or copies, except depositions and audio or video material."

A jury's review of depositions, audio or video material during deliberations must occur in open court, the rules say.

Joseph Daly, professor emeritus at Mitchell Hamline School of Law, said judges might prohibit transcripts in the jury room because jurors can become fixated on specific words. "It can take on a bigger dimension," said Daly, who is not involved in the Yanez case.

Among the evidence Leary did allow jurors to take with them into deliberations was the pair of shorts Castile was wearing when he was killed. Leary instructed jurors not to break the seal on the plastic bag containing the shorts, which are considered a biohazard.

The Ramsey County attorney's office said that although prosecutors weren't able to introduce the BCA video, they were able to cross-examine Yanez Friday regarding statements he made in it.

"We were still able to introduce his conflicting statements for impeachment purposes, but not in the manner we had planned on, which was to have the defendant listen and respond to questions as it was being played," said the county attorney's statement.

Yanez, 29, is charged with one count of second-degree manslaughter and two counts of reckless discharge of a firearm for killing Castile, 32, on July 6 in Falcon Heights. Reynolds and her daughter, then 4, were also in the car at the time.



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Jeronimo Yanez and his defense team intently watched dashcam footage played during opening statements in Yanez's trial.

Prosecutors argued that Yanez, who is Mexican-American, racially profiled Castile, who was black, when he stopped him for a nonworking brake light in order to determine whether he was a suspect in the armed robbery of a nearby convenience store four days earlier.

Defense attorneys argued that Castile was culpably negligent in the shooting because he volunteered that he possessed a gun without disclosing that he had a permit to carry it, that he reached for it instead of keeping his hands visible, and was high on marijuana, rendering him incapable of following Yanez's order not to reach for it.

A gun was recovered from Castile's right front shorts pocket as medics and police prepared to move him onto a backboard. Castile had a permit to carry the handgun.

The jury received the case about 1:10 p.m. Monday. They deliberated from 9 a.m. to 4:30 p.m. Tuesday without reaching a verdict, and are scheduled to reconvene Wednesday by 8:30 a.m. It's unclear how long they will deliberate, but Leary has said he would keep them until 4:30 p.m. or 6 p.m. if they unanimously agree on an extension.

Valerie Castile, Philando's mother, posted a seven-minute video on Facebook Tuesday thanking all the people who have stood by her family.

Her son, she said, didn't have to die this way.

"The officer had time to decide if he really needed to use deadly force," she said. "We need to bring a stop to what's going on in the whole nation."

She wouldn't predict the jury's verdict.

"I'm going to stay strong," she said. "This is no longer about Philando, but it's about humanity."

Star Tribune staff writer David Chanen contributed to this report.

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