



It was a Thursday night, and Brian Simms, Jr. was asleep in his car outside of a late-night concert. He would never make it home. Off duty police officers serving as armed, private security shot Brian in his car at least 9 times. The security guard who killed him was never held accountable, instead his other job as a cop extended him qualified immunity according to the criminal legal system.

Oklahoma City Police Officers, Paul Galyon and Antonio Escobar were working as private security for a concert at the Oklahoma City Farmers Market when they noticed Brian asleep in the driver's seat of a car in the parking lot. They approached the car with their flashlights streaming into the vehicle, waking and startling a groggy Brian. Neither identified themselves as police officers. Neither were on duty.

What happened next, we will never know for certain. Two of the witness' accounts conflict, and Officer Galyon killed the only other witness. However, both officers claim a gun sat on or near Brian's lap as he slept inside the car and that, as Brian awoke startled by their flashlights, he moved his hands toward the gun. Officer Galyon immediately fired his gun. Not once, not twice, but 10 consecutive shots from point blank range into the open passenger window of the car. Brian felt the pain of those bullets as he was hit at least 9 times. Officer Galyon fired 4 of those shots directly into Brian's back as he tried to scramble away from the shooting, toward the driver door, where he ultimately bled to death as the concert continued inside.

Officer Escobar never fired a shot. Instead, he made a tactical move to the rear of the vehicle, while Officer Galyon unloaded his gun through the car window and into Brian. Neither officer ever saw Brian touch his gun.

Brian Simms, Jr., 24, died in his car, bleeding to death from multiple gunshot wounds. The Oklahoma Medical Examiner's Office ruled his death a homicide. The Oklahoma City Police Department's internal investigation of Brian's killing cleared Officer Galyon of any wrongdoing and commended him for his actions. The Oklahoma District Attorney's Office declined to bring any charges. Officer Galyon was not on duty with OKCPD during the shooting. He was armed and earning extra income, but the full privilege that shields police from accountability was extended to him in this role.

Denied justice by the District Attorney's office, Brian's mother, Charlesetta Murray, filed a federal wrongful death suit against Officer Galyon, the Oklahoma City Police



Department, and the City of Oklahoma City for the excessive force used to kill her son in violation of the Fourth Amendment to the United States Constitution. However, the District Court ruled in favor of Officer Galyon, granting him qualified immunity.

Qualified immunity is granted to police officers when their actions are “objectively reasonable when viewed from the perspective of a reasonable officer at the scene.” The District Court found Officer Galyon’s choice to shoot Brian at least 9 times at point blank range while he sat in a parked car to be “reasonable,” despite Officer Escolar’s choice to move to the back of the car without firing a single shot when presented with the same facts. Furthermore, the District Court extended the protection of qualified immunity to Officer Galyon while he worked off-duty as a hired private security guard.

Ms. Murray now files an appeal with the Tenth Circuit Court of Appeals, asking that the appeals court overturn the District Court’s wanton application of qualified immunity and allow the case to be heard by a jury of her peers.

Ms. Murray is represented by the law firms of Maples, Nix & Diesselhorst and Stan Monroe, P.C.

Ms. Murray is joined in her appeal by the American Civil Liberties Union of Oklahoma.

Ms. Murray seeks justice not only for her son, but for all people, especially the many young Black men like her son Brian, wrongfully killed by law enforcement officers who are never held accountable because of qualified immunity.