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Jury acquits defendant in New Year's Day shooting

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A 23-year-old Buffalo man was acquitted this week on several charges, including attempted murder, stemming from a New Year's Day shooting on Bailey Avenue.

After a weeklong trial before Erie County Judge Sheila A. DiTullio, a jury found Kevin "Booker" Miller not guilty of attempted murder, assault and criminal possession of a weapon.

"My argument to the jury was that, at best, all of the supporting evidence – much of it modern, CSI stuff – merely showed that Miller could have been the shooter," said Paul G. Dell, his defense attorney. "Nothing was conclusive."

Miller, who was accused of using an illegally possessed handgun to shoot Maynard Vanever, faced 25 years in prison had he been convicted.

"Contrary to what some have claimed, we routinely try tough cases when we believe we have the evidence," said District Attorney Frank A. Sedita III. "We usually win, but sometimes we lose. That's the price you occasionally pay when you have a no-plea policy for cases that have been indicted by a grand jury."

Vanever was shot twice in the 2300 block of Bailey Avenue.

Vanever, who was flown in for the trial from Texas, where he serves in the military, maintained that he did not see the shooter, Dell said.

The shooting occurred during a fight involving at least 25 young men in the middle of the street outside a party at 4:30 in the morning, Dell said.

The court previously dismissed perjury counts against Miller's brother, Keyon, and their aunt, Monique Wirt, whom prosecutors said offered false and misleading testimony on behalf of Kevin Miller.

Miller did not testify.

During the trial, prosecutors played an audio of his interrogation in which he lied and denied attending the party, Dell said.

"He did this because he did not want to face a parole violation," Dell said. "Obviously, his attendance violated parole in many respects."

The prosecution's evidence included cell tower evidence tracking Miller's whereabouts at all times, DNA evidence that did not exclude him from possessing the handgun, numerous jail calls, and photos and text messages taken from his phone, Dell said.

Dell sought to discredit the only witness who identified Miller as the shooter.

"I argued that she was lying about seeing Miller do the shooting and that her version of events was inconsistent with other evidence," Dell said.

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