



# Korryn Gaines case: Why and how Baltimore County judge overturned \$38M verdict for woman killed by police

Jean Marbella

February 21, 2019

What happened to the jury verdict awarding \$38 million to the family of Korryn Gaines, the Randallstown woman who was shot and killed by police in 2016?

Baltimore County Circuit Court Judge Mickey Norman overturned the verdict last week, saying the officer, Royce Ruby, acted reasonably when he fired at Gaines, who he said appeared to have raised a shotgun as if to shoot after a six-hour standoff in her apartment.

Juries do get overturned on occasion, right?

Yes, typically on appeal. In this case, though, Norman is the judge who presided over the trial of the civil suit, and overruled the jury before the case was appealed.

How Was He Able To Do That?

The defendants filed a motion after trial for what is known as JNOV, Latin for judgment “non obstante veredicto,” or judgment notwithstanding the verdict. It allows judges to reverse verdicts that they think no reasonable jury could have reached — such as if the facts don’t support it.

“The motion doesn’t get granted often, but it does get granted,” said Gregory Dolin, an associate professor at the University of Baltimore Law School. “Juries can go off the rails, especially in an emotional case.”

Dolin said he’s not saying he thinks that happened in this case; he hasn’t heard the evidence or read the filings. “But in general, when either the jury goes off the rails or when the judge realizes that jury’s factual findings are legally, as a matter of law, insufficient to sustain a judgment in favor of the winning party, a JNOV is appropriate.”

What Did Norman Think The Jury Got Wrong?

The jury had concluded that Ruby acted unreasonably when he shot Gaines, which violated her constitutional rights. Norman disputed that in his Feb. 14 ruling, saying Ruby acted reasonably because Gaines was armed with a shotgun and refused commands to drop it over the course of the standoff.

He also found that Ruby is protected by qualified immunity, which shields public officials such as police from civil liability when performing their duties as long as they haven’t violated a

person's constitutional rights, and the right was "clearly established" law at the time of the incident.

#### How Did Gaines' Family Respond To This Turnaround?

Lawyers representing family members have said they would appeal.

Attorney J. Wyndal Gordon took to Facebook on Tuesday to argue against Norman's ruling.

"I believe he got the facts wrong, and not only did he get the facts wrong but I believe his legal opinion is flawed," Gordon said in a live video as he drove a car. "The court is not supposed to supplant his judgment for that of a jury."

Gordon disputed that Gaines was about to shoot officers. He also said that among the issues he'll raise in an appeal is whether the police, who got a key from the rental office had even entered Gaines' apartment legally. An arrest warrant, which they had, is not the same as a search warrant, which they didn't have, he said.

Kenneth Ravenell, who represents Gaines' son, Kodi, who was allotted the largest share of damages, more than \$32 million, declined to comment other than to say he plans to appeal.

A spokesman for the county also declined to comment, citing the likelihood that the case would remain open through appeal.

#### What Do Other Lawyers Say About The Ruling?

David Rocah, senior staff attorney for the ACLU of Maryland, expressed concern on two issues.

A judge is not supposed to use JNOVs to substitute "his own opinion for the jury's," he said.

"They are reserved only for cases where the jury failed," he said. "The judge's opinion in this case leaves me with very grave doubts that's what happened here."

Rocah said Norman's opinion "offers no clear argument why their judgment could not be supported by the evidence."

He also questioned the judge's opinion that Ruby was protected by qualified immunity, which attorneys say should be determined earlier in the legal process, not after the trial has ended. Whether a police officer or other public official qualifies for this immunity, attorneys say, should be answered as early as possible because the intent is to spare them from having to go through the trial if they're not liable for damages anyway.

Norman in his ruling, however, said that while the question came up earlier in the process, it was only after "the facts were fully fleshed out at trial" that the court had a more complete understanding of the evidence.

#### Has Qualified Immunity Proved Controversial In Other Cases?

Yes, and the ACLU is just one of a number of groups across the political spectrum that have come out against qualified immunity. They say its use prevents police and other public officials from being held accountable for excessive use of force and other misconduct.

Groups including the ACLU, the libertarian Cato Institute and the Second Amendment Foundation have filed briefs to the Supreme Court in support of cases that challenge the doctrine.

One hoped-for test case, in which a pretrial detainee in Connecticut was kept in solitary confinement for nearly seven months and brought a civil rights suit against prison officials, was settled out of court, but the groups hope to file briefs in other cases, said Jay Schweikert, a policy analyst with the Cato Institute's Project on Criminal Justice.

"We're coming back again, and we're going to keep looking for these cases," Schweikert said.

He noted that there are signals that the high court is open to considering the doctrine, with justices including conservative Clarence Thomas and liberal Sonia Sotomayor expressing concern about it for varying reasons.

What Happens Next In The Gaines Case?

With attorneys for her family vowing to appeal, appellate judges will have before them a full record of each side's arguments and several courses of action, said Dolin, the University of Baltimore law professor.

"We have a jury verdict, and we have a judge's legal opinion," he said. "They can reverse [the judge] and re-instate the verdict. Or the court can say the judge got it right."

Another option is ordering a new trial, which could then trigger a new round of appeals, Dolin said.

"Juries," he said, "are somewhat unpredictable."