

The unethical use of a grand jury to defend defendant Darren Wilson

An attorney's view

From Eyelid website

November 26, 2014

A lot of people aren't understanding what was wrong with the way the grand jury was conducted in Ferguson.

The prosecutor "presented all the evidence", and therefore everything was fine, right?

I am an attorney, and I assure you, no it wasn't fine. In a grand jury proceeding, the prosecutor entirely controls the (secret) presentation of evidence, and what happened here is that the prosecutor, who is firmly tied to the police department, decided to throw the presentation.

In more detail, here's what the prosecutor did to jimmy this case and protect his boys in the police department:

First, a grand jury isn't a trial. It's not supposed to be. The point is for the grand jury to determine whether, if the prosecution is ENTIRELY CORRECT in its theory, there is enough evidence to prosecute the defendant. What happens is the prosecutor, and only the prosecutor - no defense attorney - presents his/her case to the grand jury. It's a ONE-SIDED presentation of all the evidence the government has.

It's NOT SUPPOSED to be "even-handed"! The defendant doesn't get to defend him/herself at all! The defense attorney isn't allowed in! and the prosecutor isn't required to present the "other side" of the case! It's supposed to be like when police officers ask for a search warrant. They present THEIR evidence. Not the other side's.

Here, the Ferguson prosecutor ignored all that and presented the case to the jury ostensibly (more below on that) as if he were a neutral party just trying to present the evidence, instead of an advocate prosecuting a person against whom the state has a case. That's unethical and I assure you not what he does in other grand jury cases. (BTW, he didn't need to have a grand jury in this case, apparently. He just decided to have one- I presume so he wouldn't have to REALLY prosecute.)

And second, the idea that an attorney cannot present "the evidence" in a way that favors one side vs. another is very amusing to those of us who are attorneys. That is what we DO, like, for a living. It appears that here, [the prosecutor put on "witnesses" who hadn't seen anything, allowed the defendant to present his case however he liked and say whatever he wanted, etc.](#)

In other words, the "prosecutor" presented the case as if he were REPRESENTING THE DEFENDANT.

Why did the prosecutor do this? ...because [he is a police force advocate. There's a long history on this.](#) His dad was a police officer killed by a black suspect; his brother, nephew, and cousin are also officers; his mother worked for the force for 20 years. Moreover, he knows his constituency and what side of his bread the butter is on. he's made a career out of protecting and not prosecuting the police force.

So yeah. What ACTUALLY happened here was that the prosecutor doesn't care about Mike Brown; he cares about Darren Wilson, and more particularly, about keeping the police force protected and happy. But he felt pressured to do SOMETHING to show he was addressing the nation's concerns. So he held a grand jury and threw the case. It's secret proceedings so he could do whatever he wanted. Now he's got a fig leaf of "justice" to justify letting Wilson off scott-free. And he'll get re-elected comfortably because the police force backs him and conservatives give money/vote.

This wasn't justice because the guy with the power, the prosecutor, didn't want it to be. He gave people an illusion of justice and some people are buying it.

I work with the legal system and have reverential respect for it. I am so sad and frustrated to see its proceedings degraded by corruption in this way.