



Not guilty in fatal shooting of 11-year-old

BY BETSY POWELL

TORONTO — After deliberating all weekend, a Superior Court jury found two men not guilty of second-degree murder in the fatal shooting of 11-year-old Ephraim Brown, one of Toronto's youngest victims of gun violence.

Jurors apparently did not believe the testimony of star Crown witness Kishauna Thomas, 21, who identified Akiel Eubank and Gregory Sappleton, both 24, as the persons firing handguns at each other at her birthday party early July 22, 2007. Her cousin Ephraim died after a bullet struck him in the throat.

The defendants — alleged to have been trying to kill each other — hugged their lawyers before grabbing and holding onto each other in a tearful embrace.

The verdict was not well received by members of Ephraim's family.

"Baby murderers . . . They're setting them free to kill again," Ephraim's aunt yelled as she stormed out of the courtroom. Police and court security officers cleared the courtroom and victim services led out a sobbing Lorna Brown, Ephraim's mother.

Minutes later, the two accused walked out of the courthouse — taking their first breath of freedom in three-and-a-half years.

"They've been painting us as bad people but now it's finally over we get to take our lives back," Eubank said, standing beside Sappleton and defence lawyers. Eubank said he was looking forward to being reunited with his son, who was just four months old at the time of the shooting.

"My condolences go to the family," he added. "I understand their grief a little boy has passed away. That could have been me that night too. I got shot, I'm still here and I thank God for that."

Sappleton had fewer words to say in front of the mob of reporters and photographers.

"I'm going to make better of it," he said when asked what he planned to do with his life.

A sobbing Lorna Brown, Ephraim's mother, said the justice system is "screwed up." "It's not right Canada need to change their stupid law and save the innocent children."

Standing nearby, her sister, Ingrid Osborne, said Thomas was telling the truth when she identified Eubank and Sappleton as the two men were responsible for her nephew's death.

"She didn't lie," Osborne said. "She's the only one who stood up for her cousin and they knocked her down," she said with tears running down her face.

"I couldn't believe it," said Nicole Brown, Ephraim's aunt, who was also crying. "We waited for three-and-a-half years and they walk the streets . . . our nephew was 11-years-old. He was way too special to leave this world."

"The reasons witnesses didn't come forward is they felt threatened. That's the way Canada is. There's no justice in Canada. You can go around and kill. There were witnesses who wanted to come forward but they were threatened with their lives."

Ephraim's aunt, Molly Brown, was hysterical.

"This is not over," she screamed standing outside in the frigid cold. "It's over in the courtroom it is not over out here and you guys know this. All you cowards who know the truth and did not step up, there's no forgiveness for them."

She added: "God will make them pay for this. They didn't only take Ephraim they killed our whole family."

Defence lawyers attacked Thomas' credibility, pointing to inconsistencies and contradictions in her evidence and police statements since she was first interviewed 12 hours after the shootout. In his charge to jurors, Justice Brian Trafford instructed them to "scrutinize" her testimony with "the greatest of care."

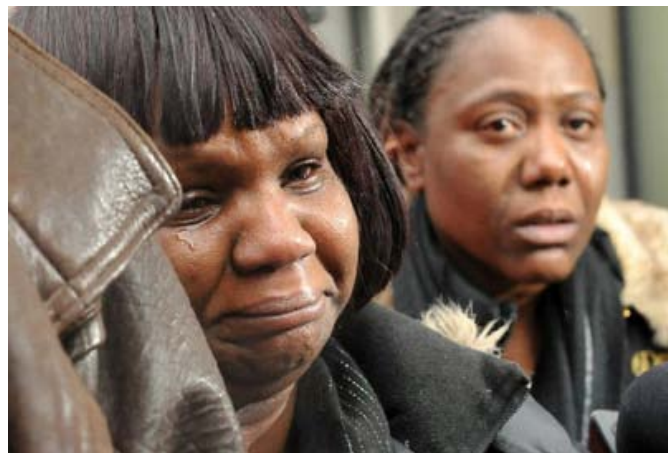
"The reason for the need for such a caution is that in our history a number of innocent people have been convicted as a result of a mistake made by eyewitnesses who were accepted by courts as reliable witnesses," he said.

But during her closing address, prosecutor Donna Armstrong had urged jurors to believe Thomas, the only witness who came to court and identified Eubank and Sappleton as the shooters.

"Why would she be doing this at all? Why put her life in jeopardy?" Armstrong said. Any inconsistencies in her account came as a result of death threats Thomas received, she said.

The jury deliberated for an hour late Friday afternoon and all day Saturday, before returning to court Sunday morning to ask that a key portion of defence lawyer Edward Sapiano's cross-examination of Thomas be read back in court. It related to the position of cars in a parking lot where Thomas said she was standing when the first shots rang out at the townhouse complex at 1800 Sheppard Ave. W., near Jane Street.

During the "read-back," Trafford told court jurors were given court exhibits but had asked that Ephraim's bloodied clothes be removed from their deliberation room at the courthouse. Jurors retired Sunday night around the dinner hour and by noon Monday told court staff they had



Tannis Toohey/Mercury news services
Ephraim Brown's mother Lorna Brown leaves the courthouse sobbing with Ephraim's aunt Ingrid Osborne, after Akiel Eubank, 24, and Gregory Sappleton, 24, were found not guilty in Brown's 2007 murder.

reached a verdict.

During the two-month trial, Sapiano, who represented Sappleton, portrayed Thomas as a liar who boxed herself into a corner after initially telling police Eubank and Sappleton fired at each other on either side of a short tunnel at the complex.

Thomas, he said, wrongly assumed that was how the gunfight transpired because that's where Ephraim collapsed. Sapiano argued there was no corroborating evidence that shots were fired through the tunnel and that Thomas feared she would be prosecuted if she recanted.

Adam Newman and Leora Shemesh, co-counsel for Eubank, told jurors Thomas could not be believed on any point, including her description of Eubank wearing a white T-shirt that night.

He showed up at the hospital, shortly after the shootout, after being hit from behind by a bullet. The jury saw what he was wearing: a white-collared shirt with a colourful pattern across the front and small bullet hole on the back.

Newman and Shemesh said while their client was a member of a street gang called Five Point Generals (5PG) — he had the 5PG logo shaved into his hair — he didn't have a gun and was attempting to run away after being ambushed at the party.

The Crown's theory was that the trouble began when Eubank and fellow members of 5PG, a Crips affiliate, showed up at the birthday party in an area close to the core territory of a Bloods gang known as Bagdad Crew.

Prosecutors alleged Sappleton belonged to the Bagdad Crew, a claim denied by Sapiano.



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