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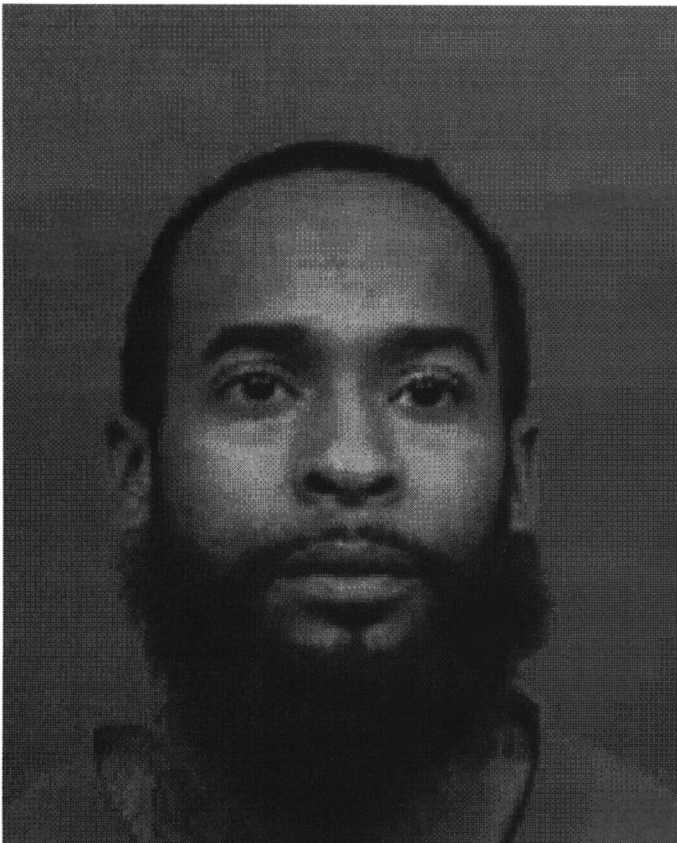
Jury convicts Buffalo man of murder but acquits woman charged as his accomplice in fatal shooting

Harold McNeil

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An Erie County jury convicted a Buffalo man of second-degree murder and also a weapons charge Wednesday but acquitted a woman accused of being his accomplice on the same charges, according to the Erie County District Attorney's Office.



Cortez Foster

Courtesy of Erie County District Attorney's Office

Jurors rendered their verdict against 32-year-old Cortez Foster after about 2½ hours of deliberation following a five-day trial.

Prosecutors said Foster in the early morning hours of March 14, 2021, shot 29-year-old Marcus Spain, who was sitting in a parked vehicle in the 200 block of Johnson Street, located in the city's Broadway-Fillmore neighborhood. Prosecutors said Foster intentionally fired multiple shots at Spain with an illegal gun. Spain was transported by ambulance to Erie County Medical Center where he later died.

Naudia Marvin of Buffalo, who was indicted as an accomplice, was acquitted of the charges.

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Defense lawyer Paul Dell, who represented Marvin, said she and Foster were in a relationship.

"They were dating. They had a sexual relationship," Dell said Thursday. "And she also had a relationship with the deceased."

Dell said Marvin was the last person seen with Spain and that the two had been together all night leading up to the shooting. Spain drove her to a party on Busti Avenue on the city's Lower West Side, and then to a party on Florida Street before returning to Busti, according to Dell. Marvin and Spain were seen leaving that party about 20 minutes before Spain was shot, the lawyer added.

The prosecution contended Foster was the principal actor who fatally shot Spain, and that Marvin had lured Spain to Johnson Street so that Foster could shoot and kill him.

"My argument was that they were going to a drug deal, and she did not share any intent that he would be killed," Dell said.

"When you're an accomplice, it's not enough that you're there while it happens. You have to share the intent," he said.

Marvin did not testify during the trial.

"Cortez Foster testified, and claimed that his little cousin did the shooting," Dell said. "Obviously, the jury didn't buy that, but the jury found that she did not know there was going to be a murder."

Foster faces 25 years to life in prison when sentenced before Erie County Court Judge Suzanne Maxwell Barnes on April 13. He remains held without bail.

District Attorney John J. Flynn commended detectives Scott Malec and Mark White of the Buffalo Police Department for their investigation.

The case was prosecuted by Assistant District Attorney Eugene T. Partridge III of the Homicide Unit and Assistant District Attorney Timothy J. Garvin of the Narcotics/Intelligence Unit.

By Harold McNeil
