

## July 26: Another gang-linked Minneapolis shooting case crumbles

Article by: and , Star Tribune

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Tywin Marcell Bender, 18, walked out of Hennepin County jail on Friday afternoon a free man when charges against him in the shooting of 12-year-old Vernice Hall last fall were dismissed.

The dismissal marks another stymied effort by County Attorney Mike Freeman's office to prosecute high-profile cases of gang violence.

Another man charged in the shooting, Semaj Marquise Magee, was acquitted during a trial in May. And in a different case earlier this year, Freeman's office was forced to dismiss charges against the second of two men charged in the killing of Charez Jones, a 14-year-old girl caught in gang crossfire on her way home from a party. Charges against the other man in that case had been dismissed previously.

Prosecutors say pursuing gang-related cases is difficult, because witnesses change stories, new witnesses appear to muddle the prosecution's case, and fear comes into play.

"We're frustrated," Freeman said. "But our obligation

is to dismiss."

While Freeman expressed frustration, the mood in front of the Hennepin County Jail at 4:15 p.m. Friday was one of elation and vindication.

"I think it's an appropriate and responsible decision," said Ryan Pacyga, Bender's attorney. "My client has been through hell. Now, for the first time in nearly a year, he breathes fresh air and can feel the sunshine on his face."

Friday's events left Vernice Hall's father, Steve Hall, disappointed and hoping for justice on another level for his daughter, now 13, shot in the head outside her family's north Minneapolis home after a party last September.

"It's heartbreaking," he said. "Whoever did this, they will be dealt with. God is not going to let them get away with it."

Hall said he and his wife were briefed by the county attorney's office about the dismissal Friday morning. They were disappointed because they thought the case against Bender was stronger than the one against Magee, and he concluded that witnesses were likely too scared to testify.

"I can't believe it. All we needed was one person to have the courage to step up to the plate," Hall said. "It's tough. I feel that the system sort of let us down because the case wasn't as strong as they led us to believe."

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Freeman wrote in his dismissal that the reluctance of witnesses to cooperate in the case and conflicting testimony in the trial of Magee forced his office to drop the case. When Magee was acquitted, a frustrated Freeman said it was likely because witnesses changed their stories on the stand after being intimidated. But he vowed to pursue the case against Bender.

Freeman said his office remains convinced that Bender pulled the trigger. But dropping the case now, he wrote, permits his office "to continue to investigate and discover additional evidence and locate additional witnesses." He wrote that Minneapolis police agreed with the decision to drop the case.

Defense lawyer Pacyga said Bender was jailed as a juvenile last Sept. 24, then was certified to stand trial as an adult and moved to the Hennepin County Jail. He said 18 charges, including attempted murder for the benefit of a gang, were filed against Bender.

For Bender, there was a residue of bitterness.

"Wrongly accused? That's an understatement," said Bender, flanked by his mother, sister, brother and a friend. "I'm innocent ... I've been here [in jail] almost a year, man."

"It's been terrible not knowing what the outcome was going to be, and hearing what people were saying on the news," said Tosha Bell, Bender's mother. "It was really hard. ... I just don't know why it took so long. I'm going to have him finish his senior

year [of high school] and get out of Minnesota."

Vernice Hall suffered massive brain damage that has left her in a wheelchair, unable to walk or talk. Police and prosecutors argued that Magee and Bender participated in a retaliatory shooting in a feud between rival gangs. Police said they jumped out of a black SUV near the party at the house in the 1800 block of Oliver Avenue N. in Minneapolis.

It's possible that Freeman could find new evidence and come back with a stronger case against Bender. But Pacyga said the case for Bender's innocence is strong enough to withstand such an event.

"That's always a decision of the county attorney's office," he said. "Today's a day of celebration." Asked whether Bender was headed straight home, Pacyga replied:

"He's going to be with his family."

Steve Hall said he's trying seek some peace.

"I'm working on forgiving," Hall said.

Staff writer Terry Collins contributed to this report.

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