

Zachary Rolfe trial: police officer said ‘it’s all good – he was stabbing me’ moments after Indigenous man was shot, court hears

Prosecutor in murder trial of Kumanjayi Walker tells court Rolfe knew his actions were not reasonable but defence says he made ‘split-second decision’



Comments made by Northern Territory police officer Zachary Rolfe after the shooting of Kumanjayi Walker indicate that he knew he had ‘gone too far’, prosecutors allege.

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A police officer charged with murdering an Aboriginal man said “it’s all good, he was stabbing me, he was stabbing you” seconds after the fatal shooting, a court has heard.

Zachary Rolfe, 30, shot dead Kumanjayi Walker in November 2019 while trying to arrest him at the remote community of Yuendumu, 300km north-west of Alice Springs.

Rolfe’s trial started in Darwin on Monday.

The court has heard Rolfe shot Walker three times after he had attempted to arrest him in relation to an outstanding warrant at Walker’s grandmother’s house in Yuendumu.

Walker had been asked to put his hands behind his back by Rolfe only seconds after police entered the property. But instead Walker pulled a pair of medical scissors from his right pocket and brought them down in a stabbing motion into Rolfe's left shoulder.

Rolfe's colleague, Constable Adam Eberl, then struggled with Walker, who was shot soon after for the first time by Rolfe, the court heard. The first shot is not subject to any charges.

Prosecutor Philip Strickland SC told the Northern Territory supreme court on Tuesday that as Eberl and Walker struggled on a mattress on the floor, Eberl gained control of Walker. Strickland said Eberl was on top of the 19-year-old Warlpiri man, whose right arm, which had been holding the scissors, was pinned under him.

Rolfe walked across the room, placed his left hand on Eberl's back, and pressed his right hand, holding his Glock semi-automatic handgun, against the left side of Walker's body, Strickland said. Rolfe then pulled the trigger twice in quick succession, in what Strickland said on Monday was known as a "double-tap" designed to ensure maximum damage.

It is the second and third shots that are subject to the murder charge. If a jury finds Rolfe not guilty of murder, he faces a charge of manslaughter, and if he is found not guilty of that charge, a further charge of engaging in a violent act causing death. The police officer has pleaded not guilty to all charges.

Strickland said that moments after Rolfe shot Walker for the final time, Eberl said to Walker: "Don't fuck around, I'll fuckin' smash ya mate." But Strickland said Eberl also said to Rolfe, "Did you – fuck", to which Rolfe responded "It's all good, he was stabbing me – he was stabbing you".

Strickland said Rolfe also mentioned that Walker had scissors. But he said the comment about the stabbings could indicate Rolfe knew he had "gone too far".

"When he said those words, he knew that the shots were not necessary or reasonable," Strickland said.

"In short: he said those words in order to justify what he had done."

Strickland also said in his opening to the trial that the jury would hear evidence Rolfe ignored a detailed arrest plan for Walker, and that some officers, including Rolfe, had been critical of previous attempts to arrest him.

He said that after discussions between Walker's family, the local Yuendumu Sgt Julie Frost, and an Aboriginal community police officer, arrangements were made for Walker to hand himself in after his great uncle's funeral, on the night of 9 November, 2019. If he did not surrender, Walker was to be arrested the following day at 5am, when it was hoped he was asleep, limiting the chances of a confrontation.

Strickland said Walker had an extensive criminal history including offences relating to the assault of police and escaping custody, and on 6 November 2019 he had threatened two officers with an axe as they tried to arrest him.

His outstanding warrant related to removing an electronic monitoring device and leaving a residential alcohol rehabilitation program, which family members say he had done to attend the funeral.

Rolfe and colleagues based in Alice Springs had viewed footage of the 6 November incident multiple times and were critical of the officers involved, Strickland said.

They had been sent the detailed arrest plan for 10 November, and screenshots of part of it were later found on Rolfe's phone, while they were en route to Yuendumu on 9 November to assist in the arrest and provide high-visibility police patrols in the context of medical staff leaving town.

But, Strickland alleged, not long after he arrived in Yuendumu, and having been instructed by Frost to do patrols of the community, Rolfe and other officers (not including Frost) instead made their way directly to a property known as House 577, where Walker often stayed with his partner.

Rolfe spoke to Walker's partner's father, Strickland said, and those conversations led them to believe Walker was at another property, known as House 511, where his grandmother lived.

At House 511, Strickland said, a woman questioned Erbel about why one of the officers (not Rolfe) had an AR-15 assault rifle. Strickland said four of the Alice Springs-based officers were from the immediate response team, which could be called to high-risk incidents and had access to high-calibre weapons, and they had been specifically requested to assist in arresting Walker the following day if required.

Strickland said that when Erbel was asked, "Why's he got a gun? Like he's aiming to shoot someone" he responded that the officer was not aiming to shoot anyone, and the weapon could not be kept in a holster.

Strickland said Erbel then told the woman: "Someone probably shouldn't run at police with an axe, yeah?"

Strickland said Erbel, followed by Rolfe, entered the house soon after, despite the arrest plan, and what the prosecution would argue is evidence that their police training discouraged such actions.

"The struggle and those events that unfolded once the accused and Eberl had entered 511, are the very things that Frost's operational plan was designed to avoid," he said.

Strickland said Rolfe also repeatedly put his hand on his weapon in the earlier "clearing" of House 577, and failed to issue clear directions to Walker before shooting him on the second and third occasions – both of which he described as further breaches of police training.

David Edwardson QC, for Rolfe, said he would defend his actions as being reasonable and justifiable in the context of the danger faced by him and Erbel. Edwardson said Rolfe was acting in self-defence, and to defend the life of Erbel, when he fired the second and third shots, and his training had emphasised that “edged weapon equals gun”.

Walker had a propensity for violence and had attacked Rolfe in a dark and confined space, he said, with the police officers having to make decisions without the “luxury” of being about to consider tactical options “frame by frame”.

“He could not press the pause button,” Edwardson said.

“He made a split-second decision to fire shots two and three.”

The first witness in the trial, Sgt Robert Kent, who was not in Yuendumu at the time of the shooting, confirmed that NT police training did include the phrase “edged weapon equals gun”.

But he said a range of circumstances had to be considered before drawing a weapon, and that each stage of the process – issuing commands, placing a hand on a firearm, drawing, pointing, and firing a firearm – were all considered an “escalation”.

The trial before Justice John Burns is expected to continue until late February.