

Brandon Duke sentenced to 55 years in attempted murder of Longmont cop

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BOULDER — Brandon Duke called it the Battle of Boston Avenue.

That battle was a gunfight that Duke started with a Longmont police officer on May 8, 2010, near the intersection of Second Avenue and Main Street, not far from Boston Avenue, according to police and court records. That gunfight cost Duke bullet wounds to his torso, arm and head after Longmont Police Officer David Blake returned fire and ended the battle.

On Friday afternoon it cost Duke something else: 55 years in prison.

Police hope the 23-year-old's sentence for shooting at an officer will send a message to others who contemplate assaulting or killing cops. Longmont Public Safety Chief Mike Butler told Boulder District Judge DD Mallard that "the criminal justice system should be loud, and it should be clear."

He pointed to recent shootings of police officers across the nation.

"This is not about an eye for an eye or a pound of flesh, but to ensure the safety of our police officers," Butler said.

In a deal with prosecutors, Duke pleaded guilty to first-degree assault and the first-degree attempted murder of Blake and agreed to a prison term between 24 and 64 years. Blake said he was happy with the 55.

"I thought it was the best I could have ever hoped for," he said. "I have to be honest: It restored my faith in the criminal justice system."

The gunfight

On May 8, 2010, Blake attended the morning briefing as usual, where he heard another officer talk about a pending warrant for Duke on suspicion of assaulting his grandfather.

Duke already had a reputation among police officers, according to court testimony. He was not a fan of the police.

Before Blake settled into his patrol car that Saturday, he checked with police records to see if the warrant was ready or if there was enough probable cause to arrest Duke without it, according to court testimony. He found what he was looking for and hit the streets. He quickly found Duke walking down Main Street listening to an MP3 player, so he pulled over and stopped Duke near Second Avenue, according to reports.

Duke initially conceded to Blake's commands, but he then ran from the officer, who chased Duke and called out for him to stop and keep his hands away from his waistband. Blake fired his Taser but missed, and Duke pulled a gun and began to fire while running. Bullets hit nearby buildings, including an animal hospital where 10 people took cover when a bullet hit the building, and a car tire. A man in the area ducked for cover. Blake, though, was not hit.

Blake returned fire and Duke went down. Bullets had hit his torso and arm and grazed his head. Duke dropped the gun and picked it up again and pointed it again despite Blake's orders.

Other officers arrived and assisted with the arrest.

Mallard said on Friday that it was a miracle no one else was hurt during the exchange of gunfire.

Duke

During Duke's sentencing hearing Friday, prosecutors painted a picture of a teenager and young man

who grew to hate police and spoke of plans to kill officers.

Earlier court hearings featured testimony about his attempt to disarm a police officer in Myrtle Beach in 2007.

But on Friday, prosecutors reminded Mallard about repeated recorded jail phone calls in which Duke railed about police, including calls he made from the Boulder County Jail before the shooting, but after an arrest for misusing a debit card. He was recorded at the time saying he wished he had a gun so he could have made the minor interaction with the police a “homicide” and suggested he knew how to get the Longmont detective who arrested him in the case. The prosecutor also pointed to social networking notes about confronting police and Internet photographs of him posed with weapons and camouflage.

“He hates police officers,” said prosecutor Catrina Weigel, who added that Duke's criminal history dates back to 2001. “He will do what he has to do to fight them, to injure them if necessary ... He knew what he was doing. He was carrying that gun for a reason.”

Weigel said the gunfight with Blake, although Duke was left badly injured, has become a point of pride for him and that he has apparently relished press coverage of it. She pointed to a police interview with him in the hospital after the shooting and that he has since called the shooting the Battle of Boston Avenue.

“He asked one of the police officers if this had made the paper, like he is a celebrity in Longmont now for trying to kill a police officer,” Weigel said.

Public defender Julia Stancil read less malice into Duke's threats and actions. She said he grew up physically and sexually abused by his father, who committed suicide. He did not report the abuse until after his father's death, she said. Stancil said Duke, who loved ham radios and at one time hoped to become a police officer, realized he could get attention if he acted out. His mother moved out of state in 2005, she said, and he felt abandoned.

“Sadly, he ended up a very lonely teenager who was very confused and, for him, negative attention was better than no attention at all,” she said.

While Duke was hospitalized for his wounds, he told investigators he believed Blake was a zombie and then asked whether they thought he would have a mental health case, according to reports and court testimony. Evaluations found mental illness, but he and his attorneys withdrew an early plea of not guilty by reason of insanity.

Stancil said the decision to plead guilty was all Duke's and that he wanted to spare the police officers a trial. She added that he will suffer a lifetime of health problems from his wounds.

“He didn't believe that he was not guilty by reason of insanity and he didn't believe he was not guilty for any other reason,” she said. “He elected to go against my advice and accepted this plea agreement of 24 to 64 years ... I didn't think that this is what I would call good plea agreement for my client.”

Blake

Blake said Friday that just days before the shooting he was in court with a woman who was threatened with a gun. The suspect in that case also tried to pull the gun on Blake, who said he thought that was the closest he'd ever come to a gun confrontation.

Recalling the woman's testimony in the case, he said he found her extremely brave and it reminded him that every time the police are involved there is a victim behind the case. It made him a better cop, he said.

Blake won the Longmont Police Department's Medal of Honor for his actions during the confrontation with Duke. He said people have told him he acted bravely, but his mind always drifted back to the woman who testified in her own case in the days before the shooting. She was brave, he said.

He asked Mallard to consider the maximum sentence.

“I didn't ask for this. I wouldn't wish it on anybody. It hasn't been a positive experience in my life as a

police officer or a family man,” he told Mallard, who referred to the comments in her sentencing, as well as a letter from Longmont Police Cmdr. Craig Earhart, who wrote that the shooting shook up some officers so much that they questioned whether they should remain in law enforcement.

Sentence

Duke's sentence is one of the longest in recent years. Convicted murderer and rapist Rudy Gaytan was sentenced to 72 years in prison in 2008.

Mallard said the prison term is rooted in the seriousness of the crime and containment of a suspect who shows a high likelihood of violence again.

“Mr. Duke, you essentially started a gunfight in the middle of Longmont,” she said. “The fact that no one was hurt in all of this gunfire was a miracle, but it isn't a mitigating factor for you. That was just a happy outcome you had nothing to do with.”

She said Duke started the altercation and didn't stop until Blake stopped him.

“Your actions escalated the level of violence from the very first contact,” she said.

“It is clear (Duke) had almost a violent fantasy of a violent confrontation with police,” she said, adding that she felt anyone could have triggered the violence. “I feel that Mr. Duke was a ticking time bomb at that point.”

She said she heard Butler's request to send a message with the sentence.

“I find this to be a very grave offense,” she said.

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