



New York Police Department (NYPD) officers enter a subway at a station in New York, US, on Wednesday, May 25, 2022. Photographer: Stephanie Keith/Bloomberg

COMMENTARY

Murder in the Subway—A Tale of Two Cases: Daniel Penny and Jordan Williams

A Law Journal columnist interviews the defense attorney representing a man accused of stabbing a fellow straphanger to death on a subway train in Brooklyn after the decedent was being unruly and violently threatening other passengers.

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Commentary

By Cary London

The recent subway incidents involving Jordan Williams and Daniel Penny have sparked considerable debate regarding the application of self-defense principles in the context of violent subway encounters.

Additionally, there are significant differences in the way that New York City Police Department and prosecutors have handled each of these cases.

Jordan Williams, a Black man, allegedly stabbed Devictor Ouedraogo, another Black man, to death. Williams claims Ouedraogo physically attacked his girlfriend and violently threatened other straphangers.

Daniel Penny, a white man, allegedly killed Jordan Neely, who is also a Black man, by placing him in a chokehold. Penny claims Neely threatened fellow passengers.

Brooklyn District Attorney Eric Gonzalez is handling the pending case against Williams, while Penny's case falls under Manhattan District Attorney Alvin Bragg's jurisdiction.



Cary London . Photo: Ryland West/ALM

One was released with no monetary bail, while the other was released on a \$100,000 bond. The Jordan Williams case is being presented to the grand jury this week, while Daniel Penny has already been indicted by a grand jury. Two very similar, yet very different cases.

I sat down with Jason Goldman, William's defense attorney, who is currently appearing for his client during the grand jury presentation.

What are the biggest similarities and differences between these two cases?

Jason Goldman: Both clearly have to do with issues on the subway, with mental illness, with housing. From a factual standpoint, the similarities may end there. I don't know enough about the Penny case in terms of Neely's actions prior to the chokehold.

But what I can say is this—the individual that Williams poked once, in defense, had spent numerous subway stops harassing others, menacing others, and ultimately assaulting others. He had an acquaintance with him who was essentially partaking as well. It got to the point where other people were literally moving between subway cars while the train was in motion over the Manhattan Bridge because it was so chaotic and dangerous. It got to the point where this individual punched my client twice in the face and neck.

How do you feel about the way bail was handled in your case as compared to Penny?



I stand by my original comments where I indicated that my client was being treated differently. Both Penny and Williams were immediately brought to a precinct and interviewed. Yet one [Penny] was then allowed to leave freely, while the other was placed under

formal arrest and denied even a
phone call with his mother.

Penny had three weeks to raise awareness and raise funds, so even when he was arrested, it was an arranged, voluntary surrender with an agreed upon bail amount which he had a cashier's check ready for. It was a 4-hour process with a guarantee he would be going home after for Penny. In essence, his \$100,000 bail was all for show. My client waited over 48 hours for his arraignment, at which time we had to make an on-the-fly argument to have him released. If I was not successful, he was going to Rikers.

We have two arrests for violent deaths in the New York City subway system in the past month—who is to blame?

The City of New York. Why should the Jordan Williamses of the city be responsible for the city's failures when it comes to mental health and housing? He didn't want to be in this situation. He doesn't want to be a hero. He didn't go out of his way to incite violence. He acted in self-defense after this deranged individual, who should have never been on the train to begin with, assaulted others and assaulted my client.

To one officer immediately after, Jordan stated that he wishes they were there to see what was happening. That's the crux of this issue—why are civilians being put in this situation to begin with. Why do they have to decide between being assaulted and being arrested. Is this really what the New York City subway is coming down to?

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