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## DA drops case against Marin City man shot by sheriff's deputy

*By*

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With less than two weeks to go before trial, prosecutors dismissed charges Wednesday against a Marin City man who fled a traffic stop in which he was shot by a sheriff's deputy.

Chaka Ali Grayson, 45, was only charged with misdemeanors, but the trial promised to flip the scrutiny onto the sheriff's department and its troubled relationship with the Marin City community.

The dismissal came on the same day a judge was scheduled to rule on whether to give defense attorneys access to the internal investigation of the sheriff's deputy, Evan Kubota.

Now those confidential records remain under lock and key, although the details could surface later in the civil lawsuit filed by Grayson.

"I feel blessed," Grayson said Wednesday afternoon. "I'm appalled, upset, that I was even charged in the first place. I'm very happy and grateful, and my family is as well."

Grayson's public defender, Michael Coffino, praised the Marin County District Attorney's Office for dropping the charges and called the decision a "vindication for Chaka Grayson and the entire community of Marin City."

"At trial we would have shown that the deputy fired his gun sixteen separate times at Mr. Grayson, striking him three times in the upper body with hollow-point bullets," Coffino said in an email. "Thirteen additional rounds entered the side and rear of his fleeing vehicle, or went into the surrounding area. All of this in proximity to kids playing in a park, pedestrians on the sidewalk and people in passing cars."

Kubota could not be reached for comment Wednesday. His six-year career at the sheriff's department ended on Aug. 27, according to the county personnel office.

"We feel Deputy Kubota's termination was unfounded and he will be pursuing the remedies available to him," said his attorney, Julia Fox of the Rains Lucia Stern law firm.

Sheriff Robert Doyle, citing personnel confidentiality rules, declined to comment on whether the internal investigation of Kubota was the reason for his exit.

The incident occurred July 7, 2013, when Kubota stopped Grayson in Marin City on suspicion of driving with a suspended license. Grayson ducked inside the car, refused to show his hands and then started to drive at Kubota, according to the sheriff's department's preliminary account.

Kubota, a combat veteran who served in Iraq, fired his gun because he thought his life was in danger, the sheriff's department said at the time.

Grayson was treated at Marin General Hospital. He was arrested later on suspicion of assaulting the deputy with his car, but the district attorney's office released him while the investigation continued.

In the meantime, the case inflamed tensions in the Marin City community, and county Supervisor Kate Sears called for a thorough investigation that was "free of bias."

The Novato Police Department conducted an independent investigation of the incident and recommended that prosecutors charge Grayson with assault with a deadly weapon. Novato police recommended no charges against Kubota.

Prosecutors ultimately declined to file the assault charge against Grayson. Instead, they charged him with four misdemeanors: failing to comply with the lawful order of a police officer, resisting police and two counts related to driving after his license was suspended for alcohol-related offenses.

The case was scheduled to go to trial Oct. 20. But new information came to light that compelled prosecutors to dismiss the charges, District Attorney Ed Berberian said Wednesday.

"The filing of a criminal case does not end our case investigation or preparation," he said. "As this process progressed toward the upcoming trial date additional information came to our attention and after careful review and evaluation led to my decision that we would not be able to meet our burden of proof and that meant I had a responsibility to request from the court that the pending case against Mr. Grayson be dismissed."

Berberian said he could not comment on what the new information was.

Sheriff Doyle said the decision "was the DA's call" and that it did not surprise him.

"It was a case the district attorney's office thought would be difficult to prove," Doyle said.

Coffino, the public defender, said the shooting left Grayson permanently disabled, with a left arm and hand that no longer have normal functioning. Grayson was a construction worker by trade.

"The deputy emptied his semiautomatic weapon at a man suspected of driving with a suspended license," Coffino said. "No witness who saw the shooting said that the officer was ever in the vehicle's path of travel. Several people saw him walking behind the fleeing car and firing into the back window. Glass

fragments and the position of shell casings from his gun, which we test fired as part of the discovery process, supported the conclusion that the officer was never in a position of danger."

The attorney in Grayson's civil lawsuit, John Burris, said his client has been unable to work since the shooting. He said the damages, while thus far unspecified, are "significant."

"We will be going forward with our case," he said.

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