



Written by [Bob Adelman](#) on June 15, 2023

Grand Jury Ignores Evidence, Indicts NYC Subway Hero Daniel Penny

One of the lawyers representing Daniel Penny, the former Marine who protected his fellow subway passengers from a deranged psychotic last month, said the grand jury that indicted him on two charges on Wednesday only had to meet a very low standard to do so. [Wrote Steven Raiser:](#)

While we respect the decision of the grand jury to move this case forward to trial, it should be noted that the standard of proof in a grand jury is very low and there has been no finding of wrongdoing.



AP Images
Daniel Penny

Because of that “low standard,” Raiser has confidence both charges will be tossed by a jury of Penny’s peers:

We’re confident that when a trial jury is tasked with weighing the evidence, they will find Daniel Penny’s actions on that train were fully justified.

The jury is likely to consist mainly of people who regularly ride New York City’s subway system and are, unfortunately, intimately acquainted with the criminals who often threaten them.

Penny is charged with second-degree manslaughter and criminally negligent homicide in the death of Jordan Neely, the criminal who threatened Penny and those near him.

Second-degree manslaughter is the killing of another human being without the intent of doing so, and is often referred to as involuntary manslaughter. New York law defines second-degree manslaughter as “a death that occurs without intent to cause serious physical injury, but where reckless conduct by the defendant resulted in death.”

Criminally negligent homicide is a charge against a defendant who causes the death of another human being through criminally negligent acts (or omissions).

Penny has already presented his case in a video released by his lawyers, [which can be seen here](#).

Excerpts from that video include:

The man [Jordan Neely] stumbled on [to the subway car], he appeared to be on drugs, the doors closed, and he ripped his jacket off and threw it at the people sitting down to my left.

I was listening to music at the time ... so I took my headphones out to hear what he was yelling.

The three main threats that he repeated over and over was, “I’m going to kill you,” “I’m



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prepared to go to jail for life,” and, “I’m willing to die.”...

I looked around and saw women and children. He was yelling in their faces saying, saying these threats. I couldn’t just sit still....

I knew I had to act, and I acted in a way that would protect the other passengers, protect myself, and protect Mr. Neely.

I used this hold to restrain him, and I did this by leaving my hand on top of his head to control his body. You could see in the video [taken by a passenger] there’s a clear rise and fall of his chest, indicating that he was still breathing.

And I’m calibrating my grip based on the force that he’s exerting.

I was trying to keep him on the ground until the police came.

I was praying that the police would come and take this situation over. I didn’t want to be put in that situation, but I couldn’t just sit still and let him carry out these threats.

It’s worth noting that following its initial investigation of the incident, the NYPD decided not to press charges.

But New York DA Alvin Bragg, noting no doubt that skin color was a major factor in Penny’s defense of innocent passengers (Penny’s skin color is white while Jordan Neely’s skin color is black), used the conclusion of the city’s medical examiner that Neely’s death was a homicide to bring the charges against Penny.

However, said Penny in his video:

I didn’t see a black man threatening passengers. I saw a man threatening passengers, a lot of whom were people of color.

Penny was released after posting the \$100,000 bond required. He was able to fund the bond using some of the nearly \$3 million his GiveSendGo crowdfunding website has already raised for his defense. More than 58,000 people have contributed to his defense, supporting Penny in his upcoming fight with the infamous and racist district attorney who will be prosecuting him at his upcoming trial.

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