

Not guilty verdict for Merseyrail guard Martin Zee deals blow to state witch-hunt

By Robert Stevens
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Merseyrail guard Martin Zee was found not guilty of endangering passenger safety, in a unanimous jury verdict. The decision Thursday followed a six-day trial at Liverpool Crown Court.

The acquittal is a defeat for the Crown Prosecution Service (CPS), which conducted a nearly two-year vendetta against Zee after a passenger accident in July 2015. He faced a possible two-year jail sentence under the archaic Offences Against the Person Act of 1861.

In court, the threadbare case brought by the CPS collapsed. The testimony of passengers, Merseyrail officials and expert witnesses all spoke to Zee's innocence.

Zee pleaded not guilty to charges of endangering passengers by wilful omission or neglect. He was charged after 88-year-old Edna Atherton fell from the platform, suffering broken ribs and a cut head at Birkenhead's Hamilton Square station.

The jury were sent out by Judge Amil Murray at around 3pm Wednesday and returned to deliver their verdict in just two hours the following morning. As Zee left the court, co-workers, family and friends applauded.

At the time of the accident, Zee fulfilled his duties as a qualified guard to the letter, following a 17-point safety procedure in which he was trained and tested.

Atherton and her friend Joan Cotgrave attempted to board Zee's train, just as he had completed safety procedures and was closing the doors. Cotgrave was spotted by Zee and he opened the doors so she could board with her zimmer frame (walker). He afterwards saw Atherton trying to board the train and pressed the button to reopen the doors. As they opened, she lost her balance and fell onto the tracks.

Had Zee not spotted Atherton and acted swiftly, she could have been trapped as the train set off. Seeing

Atherton's fall via his cab monitor, Zee told the court, "I rushed to her aid as fast as I could ... I just wanted to reassure her to make sure she was OK. Making sure she had movement in her arms and her legs. We had a conversation about the post office meeting she was going to attend, and just general small talk."

Far from endangering Atherton, the truth—as the court case proved—is that Zee likely saved her life. Zee told the court, "My truth was the opinions and witness reports of up to 20 people."

One defence witness was railway expert Andrew Brodniewski, a member of the Rail, Accident and Investigation Branch since it was formed in 2004. He told the court, "I have worked in the rail industry all my life. When I started, I was involved in the design, testing and commission of the modern trains we see on the network now." This included "the design of passenger doors and how they operate."

Brodniewski contradicted the evidence presented by the prosecution on two counts—that guards could operate the controls to shut the doors and at the same time check the platform—which Fergus McCulloch, a witness for the CPS, maintained Martin failed to do. Brodniewski explained that Zee had to turn his back on the platform as he pressed the buttons to control the doors.

He also disagreed with McCulloch's testimony that the curvature of the platform and the position of the train wouldn't affect visibility. Brodniewski showed pictures he had taken from the platform from roughly where Zee would have stood, pointing out several blind spots. He highlighted another blind spot on the CCTV monitor on the platform. In his expert opinion, Martin could not have seen with his naked eye the footplate or door that Atherton was trying to board.

According to the *Liverpool Echo's* reports, defence

witness Andrew Dickson told the court he was on the same platform as Zee's train at the time of the incident and subsequently saw an article in a newspaper that a guard was being prosecuted for something he believed was not his fault.

Dickson said he first contacted the Rail, Maritime and Transport union (RMT), of which Zee is a member, last year, but did not hear anything back and assumed the case against Zee had been dropped. But Dickson saw a report in a newspaper last week and contacted the RMT to provide a witness statement, as he "couldn't believe" it was going to court.

Dickson explained that he had shouted out to Cotgrave and Atherton not to board the train, as he sensed it was a dangerous situation. He tried to stop the women boarding. "I said 'no, no, no' as they both tried to board the train." He first saw Atherton as she put her foot on the footplate. He said, "I carried on saying 'no, no, no' as they tried to board. I thought that everyone knew that you shouldn't board when the alarm is beeping. That's why I tried to stop them both."

That the CPS decided to pursue Martin Zee is extraordinary, given that Merseyrail's own inquiry had exonerated him of all blame. Merseyrail found that Zee, who remained working as a guard after the incident, followed all safety procedures and was innocent of any wrongdoing.

Speaking after the verdict, Merseyrail said an internal investigation and another by the Office of Rail and Road—the safety regulator—"found there was no case to answer." The company added, "The door closure warning alarm is in place to alert passengers to the danger of closing doors and we rely on passengers heeding that warning and not attempting to board or alight while the doors are closing."

The decision to drag Zee into court was politically motivated. At present, several rail companies, including Merseyrail, are seeking to impose a government-backed policy of Driver Only Operated (DOO) trains, doing away with the critical safety role of guards and eliminating thousands of jobs.

Had Zee been found guilty, it would have been an enormous propaganda coup for the government—and the private rail franchises—who would have used it to intensify their denigration of guards.

The unanimous not guilty verdict by the jury—in a city associated with a long history of working class

struggle—was in direct opposition to this witch-hunt. It testifies to widespread sentiment in support of rail workers and the critical role they play in the safety and well-being of the travelling public.

Support for Zee was reflected in dozens of comments received by the *Liverpool Echo* from readers outraged he was ever taken to court. RMT members passed local branch resolutions pledging to support Zee, with one requesting the RMT prepare a strike ballot in the event of him being found guilty.

The jury verdict came just three days after a powerful strike by Merseyrail guards against DOO brought the network to a halt, with guards also striking at Arriva Rail Northern and Southern Rail. Merseyrail drivers—in defiance of the company and their trade union ASLEF—refused to cross picket lines set up by RMT guards. Zee's acquittal and the principled action by railway workers and passengers points to the need for a united struggle by guards, drivers, transport workers and passengers against the current efforts of the private rail companies, aided and abetted by the rail unions, to enforce DOO.

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