

Mistrial in case against “No More Deaths” volunteer charged with aiding immigrants

By Meenakshi Jagadeesan
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US District Court Judge Raner Collins declared a mistrial Tuesday in the federal felony case against “No More Deaths” (NMD) activist Scott Warren after the jury failed to arrive at a unanimous verdict despite three days of deliberation.

Warren, a 36-year old humanitarian aid volunteer and professor of geography at Arizona State University, was arrested in Arizona in January 2018, along with two undocumented migrants. He was accused of providing the two men—23-year-old Kristian Perez-Villanueva from El Salvador and 20-year-old Jose Arnaldo Sacaria-Godaythe from Honduras—with food, water and a place to sleep over three days.

In the grand jury indictment that followed the arrest, Warren’s alleged crime was translated into three charges—one of conspiracy to transport and two of harboring illegal aliens—which, taken together, carried a potential prison sentence of 20 years.

The prosecutors, Assistant US Attorneys Nathaniel Walters and Anna Wright, attempted to present their case as being solely focused on an individual who had conspired to defy the laws of the United States and to “thwart the Border Patrol at every turn.” They claimed that their prosecution of Warren did not in any way constitute an attack on organizations providing humanitarian aid to immigrants. This is patently false.

In addition to targeting immigrants and their families, the Trump administration has worked to intimidate and criminalize humanitarian aid organizations that attempt to alleviate human suffering and limit deaths in the unforgiving terrain of the Sonoran Desert, which overlaps the US-Mexico border.

Since 2017, numerous NMD volunteers have been arrested and threatened with criminal prosecution. Warren himself had faced misdemeanor charges last year for leaving water and medical supplies on public

lands. In this context, it is obvious that his prosecution on these new felony charges marks yet another escalation in the Trump administration’s war against immigrants.

The prosecution’s case against Warren, as it became clear during the course of the trial, was based on extremely flimsy, circumstantial evidence. Two Customs and Border Protection (CBP) agents who were brought in as witnesses could describe only the circumstances leading to the arrest and suggest that they might have seen Warren making hand gestures and providing directions to the two Central American immigrants.

The video testimony from Perez-Villanueva and Sacaria-Godaythe—recorded before they were both deported—served only to underscore the defense claim that Warren barely had any contact with the men, and that the contact he had was restricted to providing them with medical aid and food while they sought refuge in the city of Ajo, Arizona.

More ominous than the two charges of “harboring illegal aliens,” however, was the charge of “conspiracy to transport.” Such charges, as legal experts note, provide government attorneys sweeping powers in criminal cases.

While the US Attorney’s office in Arizona did not initially spell out its theory of conspiracy in the Warren case, an investigative report by the *Intercept* last month revealed the direction the government was intending to take. As made clear in the report, the US government intended to focus not just on Warren, but also a “co-conspirator,” Irineo Mujica.

A dual Mexico-US citizen, Mujica is a prominent immigrant rights activist and the founder of Pueblo sin Fronteras, the group associated with organizing the immigrant caravans that have been the target of

repeated angry tirades from President Trump. He also runs a migrant shelter in Sonoyta, Sonora, just south of the Arizona border.

The prosecution presented Warren's cell phone records to show that he had been in contact with Mujica on the days leading up to the arrival of the two men and argued that this contact implied a conspiracy between the two men to transport and hide undocumented immigrants. As to why Warren might be involved in such a conspiracy, assistant attorney Wright suggested that his aim "was the furtherance of the goals of his organization" in helping people complete their entry into the United States.

In his opening statement at the trial, defense attorney Greg Kuykendall explained the contact between Mujica and his client in a way that presented a far more credible account of not just Warren's actions, but also the "goals of his organization." Mujica, Kuykendall stated, had become aware of the location of human remains in the Sonoran desert, and was cooperating with NMD volunteers to find those remains.

In the last two decades, over 3,000 bodies have been recovered in the Arizona desert in large part due to the efforts of volunteers like Warren and Mujica, who have forced the CBP to confront the loss of life caused by an immigration policy that pushes migrants into making a deadly crossing.

Warren and Mujica were featured together in a 2017 Pulitzer Prize-winning newspapers series that detailed their efforts to find lost and dead migrants in the desert. Given that background, Kuykendall argued that the cell phone contact between the two was not only easily explainable, but also did not automatically constitute evidence of a far-flung, cross-border conspiracy to smuggle migrants across the US-Mexico border.

The arguments presented by the defense persuaded at least two-thirds of the jury to the extent that they were in favor of acquittal on all charges. Despite three days of deliberations, the jury remained deadlocked, leading Judge Collins to declare a mistrial.

After the announcement that the jury had deadlocked, Scott Warren told reporters gathered outside the courthouse that the US is witnessing a humanitarian crisis. And while the "government's plan... [is] policies to target undocumented people, refugees and their families; prosecutions to criminalize humanitarian aid, kindness and solidarity... it remains as necessary as

ever for local residents and humanitarian aid volunteers to stand in solidarity with migrants and refugees."

While significant in its expression of the popular sympathy in the general population for immigrants and those who aid them, the mistrial does not mark a total victory for Warren, who faces a hearing set for July 2 to determine the status of the case. Federal prosecutors have not publicly indicated whether they will seek a retrial.

Developments around the world point to an intensification of the war against immigrants who are fleeing across international borders in search of safety—specifically through the targeting of humanitarian aid workers and organizations.

Mujica was arrested by Mexican federal police in Sonoyta on Wednesday for allegedly transporting migrants illegally, according to a press release from the Mexican government.

In the European Union, the Italian government under the framework of its "Operation Triton" has taken the lead in seizing rescue vessels and initiating criminal prosecution of NGOs that have tried to provide succor to refugees seeking asylum via the deadly Mediterranean route. France, Greece, Spain and other European countries have followed this lead, refusing rescue vessels run by agencies like Doctors without Borders a license to sail. As a result, rescue operations in the Mediterranean by established NGOs have virtually ceased since 2017.

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