

Two Utah protesters face life in prison

By Chase Lawrence
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On Friday, August 7, in Salt Lake City, Utah, two protesters, Madalena McNeil, 28, and Marvin Oliveros, 39, were charged with felony criminal mischief with a “gang enhancement,” a first-degree felony under Utah law, which carries a potential life sentence.

This is in connection to the defacement of the District Attorney’s office with red paint during a July 9 protest against police violence. The two were additionally charged with third degree rioting charges. A third protester was charged with assaulting an officer, a third-degree felony, which carries a lesser maximum sentence.

The protests outside the DA’s office were sparked by the declaration by the DA that the police shooting of Bernardo Palacios-Carbajal, 22, was lawful and therefore declined to press charges against the officers involved. In police body-cam footage, two officers can be seen shooting Palacios until their magazines were empty as he attempted to run away and after he fell to the ground.

McNeil, speaking on the draconian charges to the Daily Beast, stated that they make her “realize that in the eyes of the state, I had become an enemy for exercising what is supposed to be a protected right.” She said, “I’m not scared because I think that I did anything wrong, because I know that I didn’t ... but it would be very foolish of me to look at the potential for life in prison and not be scared.”

The criminal complaint against McNeil accuses her of helping to buy the red paint used in the protest and of positioning herself to shove an officer wielding a shield. Police investigators implicated McNeil and Oliveros with footage from the store they used to buy the paint, and rollers and paint buckets found in a van they allegedly used to transport the paint.

The first-degree felony charges against McNeil and Oliveros follow similar charges made against four other protesters from the same event, Viviane Turner,

Michelle Mower, Madison Alleman, and Emanuel Hill, bringing the total to six. They were charged in late July on similar charges of first-degree felony criminal mischief and third-degree riot charges.

During the protest in question, a small crowd gathered outside the SLC DA’s office and posted signs on the side of the building with messages such as “Justice For Bernardo,” “Abolish Police Gangs,” and “BLM ACAB.” The facade of the building and the ground in front of it were painted red, with red hand prints left on the windows and façade of the building. Four windows were broken by protesters. Following this, police charged protesters, with many, including McNeil, suffering injuries, and two requiring treatment at a hospital. One Salt Lake City police officer was injured and received treatment at a hospital.

The American Civil Liberties Union of Utah has documented police violence against protesters during the July 9 event and other protests against police violence. Trained ACLU observers stated that they witnessed a “disproportionate and militarized police action in response to protests and First Amendment speech that criticizes elected leaders and law enforcement in Utah.”

The draconian charges were made possible by Utah’s anti-gang sentence enhancement legislation, which was used by the District Attorney Sim Gill against the protesters. The law reads: “Offenses committed in concert with two or more persons *or* in relation to a criminal street gang.” That is, the gang legislation covers any organized activity involving at least three people. Gill has sought a replacement prosecutor, citing the obvious conflict of interest, but as Jason Groth, an ACLU Utah official, explained “You’re providing the context for the rest of the prosecutor’s decision, even if they are from another office,” and that the prosecutor would be trying the case with the same charges Gill filed.

When asked about the charges, Gill said, “This is not about protest. This is about people who are engaging in criminal conduct.”

Sam Johnston, a lawyer writing in an op-ed on Gill’s charges against protesters, stated, “As Gill is undoubtedly aware, the U.S. Constitution prohibits the government from limiting speech. In this case, the act of using red paint to demonstrate pain, suffering and state violence was undoubtedly speech.”

That is to say, to Gill and the government, the “criminal conduct” is the free speech.

Erin Mendenhall, the Democratic mayor of SLC, gave an announcement amounting to an endorsement of the prosecution of protesters: “If a crime is committed, there should be a consequence,” but disagreed on the severity of the charges, saying they were “too extreme.”

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