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Judge dismisses gun charge against vigilante shooter Kyle Rittenhouse

On Monday, just before closing arguments in the trial of Kyle Rittenhouse, Kenosha County Circuit Court Judge Bruce Schroeder accepted a defense motion to drop another charge against the fascist teenage shooter for illegally possessing a dangerous weapon.



Assistant District Attorney Thomas Binger gives his closing argument during Kyle Rittenhouse's trial at the Kenosha County Courthouse in Kenosha, Wis., on Monday, Nov. 15, 2021. (Sean Krajacic/The Kenosha News via AP, Pool)

The dismissal of the misdemeanor by Judge Schroeder—who has repeatedly sided with the shooter and his attorneys throughout the trial—is significant in that it removes from the trial a charge against Rittenhouse that was open and shut. The 17-year-old shot and killed two men, Joseph Rosenbaum, 36, and Anthony Huber, 26, and injured Gaige

Grosskreutz, 27, with a weapon that was illegal for him to possess in the state of Wisconsin.

The Wisconsin statute states, “Any person under 18 years of age who possesses or goes armed with a dangerous weapon is guilty of a Class A misdemeanor.” The law defines a dangerous weapon as “any firearm, loaded or unloaded” and its violation is punishable by up to nine months in jail.

Judge Schroeder denied that Rittenhouse broke the law and instead accepted the defense theory that other Wisconsin laws about minors hunting under adult supervision rendered the statute that possession of a dangerous weapon by anyone other than those who are 18 or older is “ambiguous.”

This is despite the fact that the shooter arrived on the streets of Kenosha on August 25, 2020, as part of a group of right-wing vigilantes who were confronting people protesting against police violence, with a loaded AR-15-style automatic rifle that he admitted on the witness stand that he never intended to go hunting with.

In accepting the defense motion to dismiss the charge—which he had up to that point not ruled on—Judge Schroeder claimed he had “big problems” with the Wisconsin law and “made no bones about that.” He said the AR-15 is “out of compliance” with the statute.

Knowing full well that the gun was in the courtroom, Schroeder asked, “is the firearm here now?” and then said, “we can either measure it or you can stipulate that it does not meet what I stated are the requirements,” which was that it had to have a “barrel length” that is less than 16 inches or an “overall length” less than 26 inches.

Rittenhouse’s Smith & Wesson M&P 15 rifle did not fit either of these requirements and, despite the fact that the prosecution argued that the exception was improperly raised and that it should go to the jury for a verdict on the charge, Judge Schroeder said, “count six is dismissed.”

There were two other significant events involving the judge prior to the delivery of closing arguments in the trial. The first was the mention by Rittenhouse’s attorney that a formal motion for a mistrial with prejudice that was originally made on November 8 had been filed, to which Judge Schroeder replied that he would rule on it.

Secondly, when the prosecution mentioned the fact that Rittenhouse pointed a loaded AR-15 at Joseph Rosenbaum and that this is a crime under Wisconsin law, the defense objected and said the shooter was justified. Judge Schroeder openly sided with Rittenhouse and pointed to the “role” of Rosenbaum in his own death.

In his closing argument, ADA Thomas Binger made the case that Rittenhouse had provoked the confrontation with protesters that ended with his shooting rampage. He repeatedly referred to Rittenhouse as the aggressor and “active shooter” who did not face an imminent threat of great bodily harm or death.

Binger said, “You cannot claim self-defense against a danger you create,” and “You lose the right to self-defense when you’re the one who brought the gun, when you are the one creating the danger, when you’re the one provoking other people.”

The prosecutor reviewed in detail the events leading up to and during the shooting death by Rittenhouse of Joseph Rosenbaum, an unarmed man, including a kill shot to his back as he fell helplessly from three previous bullets from the shooter’s rifle.

Binger also debunked the primary argument of the defense that Rittenhouse was acting in self-defense by saying that the shooter decided to pull the trigger four times in .76 seconds in killing Rosenbaum.

In his closing arguments, defense lawyer Mark Richards made a specifically political appeal to jury and denounced the protesters against the brutal police shooting of Jacob Blake two nights earlier as “rioters,” “looters” and “destroyers of property.” Richards sought to connect all of Rittenhouse’s victims with the “violence” of the demonstrators.

Richards attempted to paint Grosskreutz—who sacrificed his arm while attempting to disarm Rittenhouse—as someone who deserved to be shot for his alleged political affiliation with the Milwaukee protest group called The People’s Revolution.

Throughout his diatribe—while Judge Schroeder repeatedly blocked any reference by the prosecution of Rittenhouse’s previous statements about shooting people or his post-arraignment association with the fascist Proud Boys—the judge never interrupted Richards. This kind of double standard has been a key feature of the Rittenhouse trial in Judge Schroeder’s courtroom.

At the end of the day, the twelve jury members were dismissed to deliberate on the remaining five charges against Rittenhouse including first degree intentional homicide, first degree reckless homicide, attempted first degree intentional homicide and first degree recklessly endangering safety.

Meanwhile, outside the Kenosha County Courthouse, Patricia and Mark Thomas McCloskey—the husband and wife who pointed guns at anti-police violence protesters in St. Louis, Missouri—showed up with a group of demonstrators in support of Rittenhouse. The McCloskeys previously pled guilty to misdemeanor charges, including purposely placing “at least one person in apprehension of immediate physical injury” by waving a semi-automatic rifle in front of their home.

There can be no doubt that the campaign in defense of Kyle Rittenhouse, which has included the willing participation of Judge Schroeder, is aimed at emboldening the use of gun violence by the far-right and fascistic elements within the US and internationally against the working class and socialist political organizations.

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