



Written by [Annalisa Pesek](#) on April 28, 2021

Ashli Babbitt's Family Attorney Announces Filing of Civil Suit Against Capitol Police

Appearing on [Newsmax](#) TV on Monday, attorney Terry Roberts, who represents the family of slain Trump-supporter [Ashli Babbitt](#), announced the family's plans to move forward with a civil-action lawsuit against the U.S. Capitol Police Department.

"I'm handling the civil action that will be filed, that's my role, said Roberts during the interview. "The family and I were disappointed in the Department of Justice's decision on this. But my role is to bring a civil action, and in that way vindicate her rights."



Image: Ashli Babbitt / YouTube

Babbitt, a 35-year-old California native, who was unarmed, succumbed to a fatal gunshot wound to her left shoulder, according to the D.C. medical examiner. She was shot by an unnamed, plain-clothed Capitol Police officer during the breach of the U.S. Capitol on January 6.

Though the mainstream media has relentlessly reported that the protests ended "with [five people dead](#), including a U.S. Capitol Police officer," the reality is that only Babbitt, a 10-year Air Force veteran, lost her life that day. Three other people perished independent of the unrest, though their deaths were attributed to the protests: [Kevin Greeson](#), 55, from Athens, Alabama, died of natural causes from cardiovascular disease; [Benjamin Phillips](#), 50, from Ringtown, Pennsylvania, passed as a result of natural causes from cardiovascular disease; and [Roseanne Boyland](#), 34, from Kennesaw, Georgia, "died by accident from acute amphetamine intoxication," reported *USA Today*.

The late Capitol Police Officer Brian Sicknick died of [natural causes](#) the day after January 6, even though the media repeatedly claimed that Sicknick's passing resulted from injuries sustained during the protests, only later admitting they were wrong.

The black officer who shot Babbitt, who is white, has been [cleared of all charges](#) and still remains publicly unidentified. He allegedly refused to warn Babbitt he was going to shoot, yet the Department of Justice (DOJ), in an announcement on April 14, determined it would not pursue criminal prosecution, citing lack of evidence.

"We think the evidence is ample that would support criminal charges against the officer," said Roberts. "Clearly the officer had a required willfulness in this case, he clearly could see that she was not armed."

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Regarding the decision not to charge the officer, the DOJ offered this statement:

The U.S. Attorney's Office for the District of Columbia's Public Corruption and Civil Rights Section and the Civil Rights Division, with the Metropolitan Police Department's Internal Affairs Division (IAD), conducted a thorough investigation of Ms. Babbitt's shooting. Officials examined video footage posted on social media, statements from the officer



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involved and other officers and witnesses to the events, physical evidence from the scene of the shooting, and the results of an autopsy. Based on that investigation, officials determined that there is insufficient evidence to support a criminal prosecution. Officials from IAD informed a representative of Ms. Babbitt's family today of this determination.

The focus of the criminal investigation was to determine whether federal prosecutors could prove that the officer violated any federal laws, concentrating on the possible application of 18 U.S.C. § 242, a federal criminal civil rights statute. In order to establish a violation of this statute, prosecutors must prove, beyond a reasonable doubt, that the officer acted willfully to deprive Ms. Babbitt of a right protected by the Constitution or other law, here the Fourth Amendment right not to be subjected to an unreasonable seizure. Prosecutors would have to prove not only that the officer used force that was constitutionally unreasonable, but that the officer did so "willfully," which the Supreme Court has interpreted to mean that the officer acted with a bad purpose to disregard the law. As this requirement has been interpreted by the courts, evidence that an officer acted out of fear, mistake, panic, misperception, negligence, or even poor judgment cannot establish the high level of intent required under Section 242.

Speaking on behalf of the Babbitt family, Roberts said he will argue in the lawsuit that Babbitt did not present an immediate threat to the officer and that he had no legal justification for shooting her.

"He doesn't give any warnings. There's ample evidence he doesn't give any warnings," Roberts told Newsmax. "We've talked to many of the people on Ashli's side of the floor, nobody heard a warning. I don't even believe she knew the officer was on the other side of the room. He's off to her left, kind of concealing himself in a room, so there's no warning even before he shoots."

Roberts continued, "This is a situation in which the officer could have easily arrested her if he had grounds to arrest her without using deadly force. An egregious act of excessive force. [He] should've been charged."

The lawsuit that Roberts will be filing soon will seek to prove the shooting was a violation of Babbitt's constitutional rights. When asked if the family believes the DOJ's decision was politically motivated, Roberts agreed, stating, "What concerns most people is there's a double standard at work here. If you were to change the circumstances, change the location, it's a certainty that there would be charges."

"Obviously the political climate is such that charges are not favored here and it really bothers us that there is a double standard at work. Clearly it has everything to do with politics. Clearly it shouldn't."

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