



Ferguson: Rule by Law or Rule by Mobocracy?

With Missouri Governor Jay Nixon concluding that Ferguson police officer Darren Wilson is guilty of murder and the *New York Times* concluding that if the grand jury fails to indict Wilson for murder there will be hell to pay in Ferguson, the question has to be asked: What has happened to the rule of law? What has happened to the fundamental understanding that under the rule of law, Wilson is innocent until proven guilty?



Following a [night of relative calm](#) in Ferguson, Missouri (there were only six arrests Wednesday night compared to 47 arrests the night before), focus is now being directed to the start of the investigation by the grand jury into the shooting of Michael Brown on August 9 by Ferguson police officer Darren Wilson. The grand jury of 12 consists of nine white and three black individuals. It will take at least nine of those jurors to bring charges (which could range from murder to manslaughter to negligent homicide) or acquit Wilson. According to St. Louis County prosecutor Robert McCulloch, the jury won't have a final decision before mid-October.

It'll take that long to present all the forensic evidence generated by the three separate autopsies performed on Brown, along with testimony by witnesses and perhaps even testimony from Wilson himself.

Already there's controversy surrounding McCulloch. An online petition has gathered more than 70,000 signatures demanding that he recuse himself from the case claiming that his background and his family ties prejudice him in favor of the police. In 1964, when McCulloch was 13 years old, his father — then a member of the St. Louis Police Department — was killed by a black suspect during an arrest. His brother, cousin, and uncle were on the police force, and his mother worked as a clerk for the department as well.

McCulloch, however, has refused to remove himself from the case: "We are going to proceed until I am told by the governor that I can't," said the prosecutor in an interview. And the governor is refusing to replace him with a special prosecutor, claiming that it would unnecessarily disrupt normal operating procedures.

The governor, Jay Nixon, has already decided that Wilson is guilty. In a remarkable overreach, Nixon said in a videotaped statement on Tuesday that "vigorous prosecution must now be pursued" in the shooting death of Brown. Some thought he meant to say "vigorous investigation" but his bias toward guilt was confirmed by his follow-on statement:

We have a responsibility to ... do everything we can to achieve justice for [Brown's] family.... Justice in the shooting death of Michael Brown must be carried out thoroughly, promptly and correctly.

Nothing in his statement mentioned justice for Darren Wilson who, under the rule of law, is innocent until proven guilty.

Nixon's overstatement was immediately challenged by Missouri's Lt. Governor Peter Kinder, who told



Written by [Bob Adelman](#) on August 21, 2014

Fox News: "It would be wrong for a prosecutor to say what the governor has said here tonight, and it's wrong for the governor of Missouri to have said." He added:

It's really heartbreaking to see a man elected to an office that high in our state government ... come out with a statement like that, that does prejudice the case.

Sergeant Kevin Ahlbrand, president of the Missouri Fraternal Order of Police, added that he also was "very disappointed" in Nixon's rush to judgment. He said, "We welcome a vigorous investigation.... Justice needs to go both ways. Darren's been vilified in the press and by politicians with minimal facts being made public."

It was the *Times*, however, that warned that if Wilson is found innocent after an eight-week investigation into the true facts of what happened the day of the shooting, there would be trouble in River City: "The community [of Ferguson] will almost certainly reject a decision not to indict Mr. Wilson."

And of course there's the inevitable and ubiquitous champion of justice himself, Attorney General Eric Holder, who is conducting his own investigation separately from the grand jury to determine if Wilson violated any federal civil rights statutes in the shooting. Happily the attorney general will have to prove that Wilson deliberately acted with evil intentions to deprive Brown of his civil rights in the shooting. With what evidence the public has seen, that would be a tall hill for Holder to climb.

But the rush to judgment by Nixon and the troublesome consequences predicted by the *Times* if the grand jury fails to indict Wilson provide sad commentary on our society: The rule of law, which is designed to protect innocents until they are proven guilty, can still be undone by racism.

Ferguson may be quieting down, but collective breaths are being held there until the verdict is announced in October.

Photo: AP Images

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