



Written by [R. Cort Kirkwood](#) on April 13, 2012

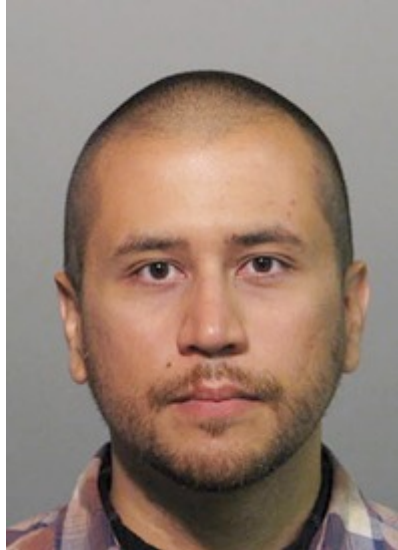
Prosecutors In Zimmerman Case Release Affidavit, But Face Trouble Getting Conviction

The evidence presented thus far doesn't quite square with facts of the case, but that aside, legal experts told media outlets that prosecutors will have a tough time convicting Zimmerman of murder.

[Zimmerman shot Martin](#) to death on February 26, [he says](#), in self-defense after Martin attacked and tried to kill him.

Latest from Prosecutors

Special Prosecutor [Angela Corey charged](#) Zimmerman, a Hispanic friend of Sanford's black community, with second-degree murder on Tuesday. Zimmerman surrendered on Wednesday, appeared in court today, and will be arraigned on May 29, at which time he will enter a plea. His attorney says he will plead not guilty.



Today, Corey's office released an affidavit offering evidence to support the charge, which carries a sentence of 25 years to life in prison.

[According to](#) the affidavit, Martin "was profiled by George Zimmerman," although the document does not use the adjective "racial." It merely repeats the non-racial scatological terms Zimmerman used to describe the hoodlums who plague his neighborhood.

In recounting some of the phone calls Zimmerman had with a police dispatcher, the affidavit [strongly suggests](#) that Zimmerman disobeyed a lawful directive not to follow Martin. It says the dispatcher "instructed Zimmerman not to do that," which isn't strictly true. In fact, the dispatcher [told Zimmerman](#) "we don't need you to do that."

The [affidavit alludes](#) to Martin's girlfriend, [who claims](#) she was on the phone with the 6-foot-3-inch football player when he encountered Zimmerman.

[The affidavit claims that](#) "Zimmerman confronted Martin and a struggle ensued," during which Zimmerman shot Martin. The affidavit says the now-famous voice heard calling for help during a 911 call is Trayvon's. Zimmerman's defender say it is him.

Uphill Battle for Prosecutors

Legal experts told the Associated Press that prosecutors won't have an easy time in convicting Zimmerman. That's because he has a credible claim of self-defense that prosecutors will have a tough time refuting. Reported AP, "For all the relief among civil rights activists over the arrest, legal experts warned there is a real chance it could get thrown out before it ever goes to trial because of Florida's 'stand your ground' law, which gives people a broad right to use deadly force without having to retreat from a fight."



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At a pretrial hearing, Zimmerman's lawyers would only have to prove by a preponderance of evidence — a relatively low legal standard — that he acted in self-defense in order to get a judge to toss out the second-murder charges. And if that fails and the case does go to trial, the defense can raise the argument all over again.

There's a "high likelihood it could be dismissed by the judge even before the jury gets to hear the case," Florida defense attorney Richard Hornsby said. Karin Moore, an assistant professor of law at Florida A&M University, said the law "puts a tremendous burden on the state to prove that it wasn't self-defense."

Indeed, that might well be impossible given that Zimmerman is the only witness to the commencement of his fight with Trayvon. Two eyewitnesses [confirmed Zimmerman's account of](#) the beating.

A lawyer made the same point to Bloomberg News. "The argument is going to be, 'What did he believe and what did he perceive?'" the lawyer said. "It's a recognized defense under the law, and Stand Your Ground has enhanced it."

Yet another lawyer told Bloomberg News that a second-degree murder charge will be tough to prove, not least because [it requires](#) prosecutors to prove the accused "evinces a depraved mind regardless of human life."

"David Waksman, a criminal lawyer who worked as a state prosecutor in Miami for 35 years, and served as a police officer in New York for six, said jurors in a second-degree murder case are asked to decide whether the killing was 'evil, hateful or spiteful,'" he told Bloomberg.

"Second degree tends to be a hard charge to make," he said. "Sometimes first degree can be easier, depending on the evidence."

Those obvious difficulties, surely known to Corey and her gumshoes, raise the obvious question of whether she "overcharged," as one expert put it, in the hope of getting Zimmerman to plead guilty to a lesser charge.

When Corey filed the charge, a [lawyer told the New York Times](#) that "the prosecutor might have 'overcharged' to retain the option, should she feel a murder conviction is slipping away, of asking the judge to instruct the jury to consider lesser offenses, like manslaughter."

It is also possible, he said, that she might be trying to coax Mr. Zimmerman to the negotiating table to plead guilty to such a lesser charge. But, he added, it is impossible to say whether it is overly tough, since evidence has not yet been produced.

But again, as the [Times reminded](#) readers, Zimmerman's legal nightmare may end at the pretrial hearing if the judge decides he acted within the law.

Loaded Language, Nonstop Hate

For her part, Corey's words at the press conference where she announced the charges were unusual to say the least. [Said Corey](#), "It was less than three weeks ago that we told those sweet parents that we would get answers to all of their questions no matter where our quest for the truth led us. And it is the search for justice for Trayvon that has brought us to this moment."

The remarks almost sound as if Corey is working for the Martins and the not people of Florida, the plaintiffs in the case.

But Corey's obvious bias toward finding something with which to prosecute the Hispanic man is nothing



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compared the non-stop hatred to which he and his family have been subjected since the media picked up the case and began running.

The [New Black Panthers put out](#) a \$10,000 bounty for Zimmerman “capture” and “called for the mobilization of 10,000 black men,” the *Orlando Sentinel* reported on March 24 to hunt down Zimmerman. The NBP wants an “eye for an eye,” [a leader said](#), warning that “if the government won’t do the job, we’ll do it.”

The same day a “Kill Zimmerman” Twitter account [began running](#) death threats, and the day before that, Spike Lee, the film director, [tweeted an address](#) he thought was Zimmerman’s, apparently in the hope that something would happen to him. It was the wrong address, and an elderly couple had to flee their home.

Charges Not Filed

While Corey has been trying to reel in Zimmerman, nothing has been done about the NBP’s threats. [The online Daily Caller reported](#) early this week that a member of Zimmerman’s family [wrote to](#) U.S. Attorney General Eric Holder to ask why his office has not acted against the group. The letter essentially accused Holder of refusing to act because he is black. [It also urged](#) him to look to the hero of [To Kill A Mockingbird](#), [Atticus Finch](#), for inspiration in talking of Zimmerman’s case. In the novel, Finch defended a black man falsely accused of raping a white girl.

Holder’s reluctance to prosecute the NBP is no surprise. His office also [dismissed an iron-clad case of voter intimidation](#) against the group for its activities outside a polling station in Philadelphia on election day in 2008.

Such was Holder’s antipathy toward enforcing the law that [he dropped](#) the case *after* his lawyers won a default judgment against NBP after the group failed to show up in court.

Critics such as [J. Christian Adams](#) claim Holder refuses to act because he is racially biased, the same claim the Zimmerman family member made in his letter. Adams [wrote a book](#) about his time at the Justice Department and why he quit his job there.

“There is a pervasive hostility within the civil rights division at the Justice Department toward these sorts of cases,” [Adams told](#) Fox News:

Adams says the dismissal is a symptom of the Obama administration’s reverse racism and that the Justice Department will not pursue voting rights cases against white victims.

“In voting, that will be the case over the next few years, there’s no doubt about it,” he said.

Given Holder’s refusal to act against the NBP in the Zimmerman case, the question is whether whites can expect his department to treat them equally in hate-crimes cases.

Not really, if the [title of Adams’ book](#) is any indication: *Injustice: Exposing the Racial Agenda of the Obama Justice Department*.

Photo of George Zimmerman: AP Images



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