



Written by [Bob Adelman](#) on July 31, 2020

McCloskeys Fire Back at Prosecutor Who Charged Them With Brandishing

When St. Louis Circuit Attorney (chief prosecutor) Kimberly Gardner [announced last week](#) that she was bringing charges against the St. Louis couple who made the news defending themselves and their home against rampaging protestors in June, she said:

Today, my office filed charges against Mark and Patricia McCloskey following an incident involving peaceful, unarmed protesters on June 28th.

It is illegal to wave weapons in a threatening manner [i.e., brandishing] at those participating in nonviolent protest, and while we are fortunate this situation did not escalate into deadly force, this type of conduct is unacceptable in St. Louis.



This resulted in immediate pushback from the White House to the U.S. Senate to the Missouri governor's mansion to the state's attorney general. It also resulted in the McCloskeys filing a lawsuit demanding that Gardner be disqualified, along with the St. Louis Circuit Attorney's Office (CAO).

According to Missouri Governor Mike Parson, the president is "interested" in being kept informed about the case and has offered any assistance he could as president. Parson said he would likely pardon the couple if they should be convicted, adding: "A mob does not have the right to charge your property. They [the McCloskeys] had every right to defend themselves."

Missouri Republican Senator Josh Hawley wrote a letter to Attorney General William Barr asking him to investigate Gardner, whom he said had expressed hostility to Second Amendment rights in the past.

Missouri's Attorney General Eric Schmitt filed a brief seeking to dismiss Gardner's charges on the grounds that their Second Amendment rights had been violated:

The right to keep and bear arms is given the highest level of protection in our Constitution and our laws, including the Castle Doctrine, which provides broad rights to Missourians who are protecting their property and lives from those who wish to do them harm.

Despite this, Circuit Attorney Gardner filed suit against the McCloskeys who, according to published reports, were defending their property and safety. As Missouri's Chief law enforcement officer, I won't stand by while Missouri law is being ignored.

And then he pointed directly at Gardner, calling her charge "a political prosecution":

The shameless circuit attorney filed suit against a St. Louis couple who, according to reports, say they were doing just that — defending the safety of their property.

A political prosecution, such as this one, would have a chilling effect on Missourians exercising their right to self-defense. The law of Missouri is clear and must be protected ... enough is enough.

The couple's lawyer commented on Gardner's charges. Said Joel Schwartz:



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I, along with my clients, support the ... Second Amendment and Missouri law which entitle each of us to protect our home and family from potential threats.

With that being said ... I don't believe it is prudent to comment any further, at this time.

On Thursday Schwartz filed the motion to dismiss Gardner from the case on behalf of the McCloskeys.

He used an interesting argument. Rather than providing the court with a long history of the Second Amendment and the Castle Doctrine, Schwartz said that Gardner is improperly using the case to promote her reelection, which takes place next Tuesday.

He provided the court with copies of a fundraising letter she e-mailed to supporters two days after charging the couple. In that fundraiser she went after the president and the governor for daring to challenge her:

Instead of fighting for the millions of Americans affected by the pandemic ... President Trump and the governor are fighting for the two who pointed guns at peaceful citizens during the Black Lives Matter protests.

Both President Trump and Governor Parsons [*sic*] are playing politics at a time when they should be doing their elected jobs.

Kim needs your help to fight back! Her election is only weeks away. And right now she is under national scrutiny from our divisive president, the Republican establishment of Missouri, and the right-wing media, including Fox News.

Will you show Kim you stand with her and rush a donation today?

This, charged Schwartz, violated a section of the Revised Statutes of Missouri that states that "a prosecutor should be disqualified if the prosecutor has a personal interest in the outcome of [a] criminal prosecution which might preclude affording [the] defendant the fair treatment to which defendant is entitled."

Gardner certainly has a "personal interest" in the outcome, charged Schwartz:

Ms. Gardner, via her campaign mailers, linked the criminal proceedings against [the McCloskeys] to her financial, political, and personal interests. The July 17th email drew a direct line from the incident, which had not yet resulted in criminal charges, to Ms. Gardner's political antagonists, and from there to a call for donations to further her re-election efforts.

For the record it should be noted that Gardner won her present position in 2016 with funds provided by political action committees that were, in turn, funded by billionaire George Soros, the radical socialist who is trying to remake the country. Those PACs provided \$190,750.73 to her campaign.

The New American will continue to track and follow this case and keep its readers informed.

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