



Dylann Roof's Many Sentences Highlight U.S. Hate Crime Law's Dangerous Redundancy

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Jacob Sullum

April 12, 2017

This week Dylann Roof, the white supremacist who murdered nine people at the Emanuel African Methodist Episcopal Church in Charleston, South Carolina, two years ago, received nine life sentences under a plea agreement in state court. That penalty was in addition to the 18 death sentences Roof received in January following a federal trial that ended in December. Rather than seek additional death sentences, Scarlett Wilson, the chief prosecutor for Charleston County, decided to accept Roof's guilty plea and spare the families of his victims the emotional strain of another trial.

These dual outcomes underline how utterly superfluous the federal hate crime statute was in this case, which supposedly illustrated the need for such a law. If the Justice Department had not beaten her to the punch, Wilson would have sought the death penalty for Roof, so the federal prosecution was not even the difference between execution and life in prison. Regardless of your views on the death penalty, there is no reason to think federal intervention was necessary to achieve justice for the victims of Roof's mass murder.

In addition to wasting resources on redundant prosecutions, the federal hate crime law threatens three important principles:

The federal government's powers are limited to those granted by the Constitution. The prosecution of murder and other violent offenses is traditionally a state function, and the constitutional basis for the federal hate crime law is dubious at best. The provision under which Roof was convicted, which applies to cases where the victim was chosen because of his "actual or perceived race, color, religion, or national origin," is supposedly authorized by the 13th Amendment.

If you do not understand how the constitutional ban on slavery applies to someone who punches an African American or a Latino while shouting a racial epithet, or to someone who specializes in mugging Jews because he figures they have a lot of money, you are not alone. As the Cato Institute and the Reason Foundation (which publishes this website) noted in a 2013 [Supreme Court brief](#), the hate crime statute "does not prohibit slavery or involuntary servitude"; "nor is it a prophylactic measure intended to assist in preventing the return of slavery or involuntary servitude."

The constitutional rationale for another provision of the federal hate crime law, covering crimes in which the victims were selected because of their "gender, sexual orientation, gender identity, or disability," is even less plausible. All it takes to make a federal case out of such crimes is a weapon "that has traveled in interstate or foreign commerce," such as a knife or a baseball bat.

After someone is acquitted, the government should not be able to try him again for the same crime. In the highly unlikely event that Roof had been found not guilty in federal court, he could have been tried again in state court, or vice versa. Although such an outcome is hard to imagine in this case, it does happen. In 2003, for instance, a federal jury [convicted](#) Lemrick Nelson, who had been acquitted in state court of murdering Yankel Rosenbaum during a 1991 riot in Crown Heights, Brooklyn, of violating Rosenbaum's civil rights by stabbing him because he was Jewish. Thanks to the "[dual sovereignty](#)" doctrine, such serial prosecutions do not officially count as double jeopardy, but they amount to the same thing.

People should not be punished for their beliefs. Since Roof cannot be executed more than once or locked up for more than one lifetime, federal prosecution did not affect his punishment. But it can make an important difference in the punishment of people who commit less serious offenses. An assault that might be punished by a year or two in prison under state law can trigger a sentence up to 10 years under the federal hate crime statute if the defendant, like Roof, has a history of writing or saying racist stuff. Such opinions are relevant because they support the charge that the victim was selected "because of" his race. But the upshot is that an offender's benighted views can earn him more prison time than his violent act.