



## Kyle Rittenhouse Has Been Acquitted on All Charges

The trial became an upside-down microcosm for the polarized debates about the U.S. criminal justice system.

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Kyle Rittenhouse, the teen who said he feared for his life when he killed two men and wounded another during a night of unrest in Kenosha, Wisconsin, has been found not guilty on all charges, including first-degree reckless homicide, two counts of first-degree recklessly endangering safety, first-degree intentional homicide, and attempted first-degree intentional homicide.

The prosecution had hoped to convince the jury that a 17-year-old Rittenhouse killed Joseph Rosenbaum, 36, and Anthony Huber, 26, without just cause when he traveled to the riots on August 25, 2020, although their case struggled to gain traction. Rosenbaum was described by a witness for the state as "hyperaggressive," ultimately chasing Rittenhouse down and trying to wrestle away his AR-15 before Rittenhouse shot him. Video footage showed Huber striking Rittenhouse in the neck with a skateboard before also trying to take his firearm. And Gaige Grosskreutz, 27, the man who Rittenhouse shot in the bicep, testified for the prosecution that he approached Rittenhouse that evening with his own pistol raised, throwing cold water on characterizations that Grosskreutz had his hands in the air.

The now-18-year-old Rittenhouse became the star witness in his own trial when he took the stand in his defense last week. It was an unusual gambit for a defendant. But it may have imperiled the prosecution, as Judge Bruce Schroeder admonished Assistant District Attorney Thomas Binger for opening his questioning with a commentary on Rittenhouse's post-arrest silence—Binger seemed to suggest that such silence was evidence of his guilt—and for attempting to show the jury evidence that Schroeder had already ruled was likely inadmissible. "I don't know what you're up to," the judge said last Wednesday in a testy exchange with Binger. "When you say that you were acting in good faith, I don't believe that."

The prosecutor was also roundly criticized for drawing a connection between Rittenhouse's actions and his affection for *Call of Duty*, as well as for his line of questioning on ammunition, which required the judge to correct him while Rittenhouse was on the stand. Yet a nugget from his closing arguments drew the loudest rebukes: "If you created the danger," Binger said, "you

forfeit the right to self-defense by bringing that gun, aiming it at people, threatening people's lives."

No matter your feelings toward Rittenhouse, that statement by the prosecutor was "legally wrong," says Clark Neily, who served as co-counsel in *District of Columbia v. Heller* (2008), the landmark Supreme Court decision recognizing an individual right to keep and bear arms for self-defense. "The right to arm yourself and to protect yourself—these are natural rights that are not *granted* by the government, they're not *granted* by the Constitution. They're rights that we all possess."

Rittenhouse's trial became somewhat of an upside-down microcosm for the polarized debates about the U.S. criminal legal system as the loudest voices effectively traded in their priors and reversed roles. Cries to eschew due process and assign a lengthy prison term came from many on the criminal-justice-reform left, while the back-the-blue right zeroed in on prosecutorial overreach.

"Lock up Kyle Rittenhouse and throw away the key," said Rep. Hakeem Jeffries (D-N.Y.), the chair of the House Democratic Caucus, who has dedicated much of his career to fighting mass incarceration. Judge Schroeder found himself at the center of similar reproach, coming under fire for rulings that some described as biased and too pro-defendant. It bears mentioning that his decisions were consistent with his decades-long career and not exclusive to Rittenhouse. But perhaps more significant is that judges have a reputation for being prosecutors in robes: On the federal bench, for instance, there are four former prosecutors for every one former defense attorney. Those concerned with criminal justice reform would typically laud a judge with a history like Schroeder's—when considering the deference that judges often give to the prosecution.

And this time it was conservative pundits who railed against the prosecutors, depicting Binger especially as a corrupt government agent with a lust for blood and a desire to punish Rittenhouse to placate social justice movements. One hopes they will continue to apply that healthy skepticism to all prosecutors, who enjoy absolute immunity from misconduct on the job and who are no strangers to seedy behavior.

As for Rittenhouse, despite the considerable amount of punditry devoted to a binary narrative—that he was a hero or a murderer—Neily presents another option: "I think he exhibited very poor judgement in arming himself and then going into that environment with a very visible, modern rifle. There's no question that there are people who perceive that to be a provocative act," Neily says. Based on the evidence, however, "I think he should be acquitted."

It appears the jury agrees.