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Aurora protest leaders facing attempted-kidnapping charges wield First Amendment defense at hearing

Party of Socialism and Liberation leaders charged in connection with July 3 protest outside police precinct



Rachel Ellis, The Denver Post

Following a rally for Elijah McClain at his memorial site, protestors remain outside of an Aurora Police Department substation through the evening on Friday, July 3, 2020.

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A showdown began Tuesday in Adams County District Court over whether three members of the Party of Socialism and Liberation committed crimes or engaged in constitutionally-protected free speech during a protest last summer in Aurora over the death of Elijah McClain.

In a marathon preliminary hearing Tuesday, prosecutor Timothy Twining and Aurora police Detective Andrew Silberman argued the three leaders incited hundreds of protesters to surround an Aurora police precinct and prevented the officers inside from leaving — acts that constituted attempted kidnapping and other crimes.

Defense attorneys countered that protest leaders never called for those actions, did not control the crowd and that their unarmed clients' actions that night were clearly protected by the First Amendment.

"Even if the court were to find the conduct meets the elements of the attempted kidnapping statute — and we strongly assert it does not — but even if the court were to find that, if the conduct is nonetheless protected by the First Amendment, then it cannot be criminalized," attorney Adam Frank said.

Lillian House, 26, Whitney Lucero, 23, and Joel Northam, 33, were [charged in September with attempted kidnapping](#), inciting a riot and other criminal counts in connection with their actions during a July 3 protest outside the police precinct.

During that protest, as many as 600 demonstrators surrounded the police station for several hours. Some used ropes to tie shut the station's doors, obstructed those doors with furniture and blocked surrounding streets with makeshift barricades made from construction materials, bike racks, rocks, fencing and other scavenged materials. Eighteen police officers were inside the precinct at the time.

House and other leaders that night said the protesters would not leave the area until Aurora police fired two officers involved in the death of McClain, who died after he was violently stopped by Aurora police in 2019.

Silberman testified Tuesday that the officers felt they could not safely leave the building, and were prevented from doing so by the barricades. He said that a confidential informant told police that Northam and House knew the precinct's doors were being blocked, and that they supported the effort.

"(She) even participated in those events by finding a rope to give to other protesters so that the gates being showed in this picture were tied shut," Silberman testified about House.



House's defense attorney, Amelia Power, attacked the credibility of that confidential informant, pointing out that no surveillance footage shows House holding any rope or barricading the gate, and that no other witnesses corroborated the informant's account.

In fact, despite numerous videos of the event from participants and bystanders, no videos show any of the three leaders blocking any doors, building any barricades or calling for others to do so, the defense attorneys said. They characterized the event as largely peaceful, with only a small contingent of the crowd putting up barricades.

No police officers were physically stopped from leaving the building that night — none ever tried to leave, attorney Joshua Landy said, arguing that police could have used crowd disbursement techniques or less-than-lethal weapons to get away if they'd chosen to do so.

"Part of kidnapping is, people can't leave. If there were ways for these police officers to leave, that would be important to this case, right?" he asked Silberman, who said he did not know what tools were at officers' disposal that night.

Landy called the case against the protest leaders a "selective prosecution" and abuse of police power aimed at stopping the leaders from organizing additional demonstrations against police brutality.

The day-long preliminary hearing did not conclude Tuesday, and will continue Monday.

Three other protesters also were charged in connection with summer protests in Aurora, including Terrance Roberts, Trey Quinn and Russell Ruch. The cases against Roberts and Quinn are pending. All charges against [Ruch were dropped in January](#).





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