

Jurors urge no prison for convicted Occupy protester in New York

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Nine out of the twelve jurors who convicted 25-year-old Cecily McMillan this week in connection with a protest two years ago on the six-month anniversary of Occupy Wall Street have written a letter to the judge in the case asking that she not be given a prison sentence.

The action, which her lawyer called “not unheard of, but unusual,” came only days after McMillan’s May 5 conviction of 2nd degree assault against a policeman as cops were breaking up a protest in lower Manhattan’s Zuccotti Park on March 17, 2012. She was accused of elbowing a cop, but she insisted that she had reacted involuntarily after having been grabbed by her breast from behind.

McMillan, denied bail and currently held at the Rikers Island jail, is to be sentenced on May 19, and faces up to seven years in prison. The prosecution is determined to send a message to protesters against inequality and injustice in the US financial capital and elsewhere. The trial, presided over by a judge well-known for his pro-prosecution record, was stacked in numerous ways against the defendant.

Many of the jurors, however, now apparently feel that they were used. Their letter to Judge Ronald Zweibel, as quoted online, states, “We the jury petition the court for leniency in the sentencing of Cecily McMillan. We would ask the court to consider probation with community service. We also ask that you factor in your deliberation process that this request is coming from 9 of the 12 member jury.”

Unable to research the case or find out what punishment the defendant faced, the jurors may have been swayed by one or two of their members who aggressively defended a prosecution case that relied on attacks on McMillan’s motives and a grainy 52-second video posted anonymously on YouTube. The judge ruled on several occasions to prevent the introduction

of evidence that would have undermined the prosecution’s case, including previous abusive conduct by the cop involved, as well as evidence of McMillan’s injuries. He also imposed a gag order on the defense attorneys after showing anger at early media coverage of the trial.

Immediately after the jurors found out that McMillan faced up to seven years in prison, one juror explained that they “felt bad ... Most just wanted her to do probation, maybe some community service. But now what I’m hearing is seven years in jail? That’s ludicrous. Even a year in jail is ridiculous.”

During the month-long trial, prosecutor Erin Choi had ridiculed McMillan’s testimony that she had been injured and that she had suffered a seizure after being arrested. One of the jurors reportedly claimed, according to the account in the *Guardian*, in relation to McMillan’s claim that she had had breathing problems at another protest, “That’s her MO” (modus operandi).

Supporters of McMillan were particularly outraged by the insinuation that a photo taken several days after her arrest, showing a bruise on her chest in the shape of a hand and confirming her account that she had been violently grabbed, had been fabricated.

The defendant, interviewed by the *Guardian* towards the end of the trial, said that the aim of the prosecution was clearly to stifle dissent. “Being up there, seeing all those videos, hearing everybody talk like it’s not you, or about you or even inclusive of you at all as a human being ... This is what happens to you if you’re a protester.”

Despite the possibility of a long jail sentence, McMillan remained firm in her decision not to accept a plea deal admitting guilt in exchange for a prosecution offer to recommend no prison time. “People can take all sorts of things away from you besides dignity,” she

said. "And this is something I can sleep with."

The vindictive prosecution of McMillan highlights the hypocrisy of the US ruling class and its media partners and spokesmen. Every day brings additional examples of its sanctimonious lies, hailing violent right-wing putsches or movements in Ukraine or Syria, while lashing out viciously against those who dare to challenge the regime of inequality and exploitation here in the US.

In this regard, the silence of all three major bourgeois newspapers in New York on the action of the majority of the jurors in the just-concluded trial is revealing. Neither the *New York Times* nor the *Daily News* has seen fit to report the jurors' letter. Rupert Murdoch's *Post* refers to it only in an editorial designed to besmirch the defendant and even the jurors who have belatedly expressed their concerns. "We'll leave it to the judge to determine the appropriate penalty for someone who assaults a cop and then puts the city through an unnecessary trial," snarls the *Post*.

The trial of Cecily McMillan is very likely the last in connection with the nearly 3,000 arrests that were made during the police crackdown on the mass protests launched near Wall Street on September 2011, which rapidly spread nationwide and even around the world. The Occupy Wall Street encampment was forcibly dispersed several months later, but the vast majority of the arrests that were made during the protests, based on the flimsiest of grounds, were eventually dismissed.

The prosecution of McMillan, brought by Manhattan District Attorney and prominent Democrat Cyrus Vance, Jr., is clearly meant to underscore the message of the police repression of two years ago. All the conditions that gave rise to the Occupy protests have worsened. The slump continues nearly six years after the financial collapse. The bankers and hedge fund managers flaunt their impunity as never before. The vindictive treatment of Cecily McMillan reflects the fear on the part of the ruling establishment that the next eruption will not be simply one of students and other protesters, but of broader sections of the working class itself.

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