

# Trial begins for Border Patrol agent who murdered Mexican teenager

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The trial of Border Patrol agent Lonnie Swartz began this week in Tucson, Arizona. Swartz has been charged with second-degree murder for shooting and killing 16-year-old Mexican Jose Antonio Elena Rodriguez in October 2012 near the US-Mexico border.

Swartz has pleaded not guilty after being indicted by a federal grand jury in 2015 and his trial will be the first time a border agent has been charged by the Justice Department in a fatal shooting across the border. The trial comes at a time when the Trump administration has led a ferocious assault on immigrants and redoubled its efforts to militarize the border.

The case has dragged on for over five years and in that time Swartz has walked a free man, able to travel at will throughout Arizona and Nevada on “administrative leave.” An autopsy from the shooting later revealed that Rodriguez had been shot at least 10 times, including eight times in the back.

Neither the prosecution nor the defense contests that Swartz shot Rodriguez from the US side of the border into Mexico, shooting downward from a cliff more than 40 feet above. The prosecution will have to prove that Swartz killed Rodriguez with “malicious intent.” In his defense, Swartz’s lawyers have argued that Rodriguez was throwing rocks at Swartz and was involved in a drug gang.

Witnesses to the event say that Rodriguez was walking by himself and was not involved in any rock throwing, while his family insists that he was returning home from a basketball game. The shooting incident lasted only 34 seconds.

Assistant US Attorney Mary Sue Feldmeier in her opening statement said that Swartz was never in any immediate danger and that he “calmly and deliberately” walked up to the border wall made of bollards and shot into Mexico, killing Rodriguez. He

then reloaded for eight seconds and shot again. She said Swartz fired 16 times, hitting him in the head twice, and eight times in his back.

She told the jury, “This is not an immigration case, this is not a drug case. This is a second-degree murder case.” The prosecution has not contested that Rodriguez was throwing rocks at Swartz, but has said that Swartz became “judge, jury and executioner.”

Feldmeier has successfully prosecuted federal agents tied to drug trafficking, money launderers, and an ICE agent who was involved in a live-in relationship with an undocumented immigrant.

Her opponent, Border Patrol’s Tucson Local 2544 union’s attorney Sean Chapman, successfully defended Nicholas Corbett, an agent accused of killing an immigrant near Naco, Arizona in 2007. The trial ended in two hung juries.

Chapman argued that Swartz was distraught and vomited after shooting Rodriguez. He told the court that Rodriguez was involved in drug smuggling based on the testimony of an FBI informant working in Nogales, Mexico. Swartz, according to Chapman, had no choice but to shoot.

He told the jury, “Agents are allowed and sometimes required to use deadly force to respond to rock throwing.”

As a matter of course, Border Patrol agents accuse Mexicans and immigrants of rock throwing to justify their deadly shootings. According to statistics from the Southern Border Community, at least 33 people have been killed by Border Patrol since 2010.

From the beginning, the Border Patrol has sought to cover up any truth of the 2013 shooting from reaching the media and has sought to defend Swartz at every moment. Initially they concealed Swartz’s identity and even blocked local media from accessing surveillance

camera footage from the incident, despite multiple Freedom of Information Act requests.

It was only until a year after the killing, in November 2013, that the Border Patrol was finally ordered by a federal court to reveal Swartz's name and unseal other documents that Swartz and his attorneys did not want uncovered.

Swartz's attorneys also sought to have the case dismissed, citing the case of 15-year-old Sergio Adrian Hernandez Guereca, who was shot in the face by a Border Patrol agent while playing in a cement culvert. In 2010, a federal appeals court ruled that Guereca's family had no standing in a US court to press charges because they were not citizens, and thus were not protected by the US constitution.

The killer of Guereca was granted "qualified immunity" and was allowed to return to work after a period of paid administrative leave by the US Fifth Circuit Court of Appeals. It was only because a judge in the Swartz case ruled against a motion of "qualified immunity" that the case has been allowed to come forward.

According to the Department of Homeland Security, Border Patrol agents were involved in at least 67 shooting between 2010 and 2012, with at least 19 deaths. Not one officer was ever seriously reprimanded.

The current Swartz-Rodriguez case is expected to last three weeks.



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