

Texas District Attorney reverses on indictment of woman arrested for “fetal homicide”

Chase Lawrence
11 April 2022

Texas District 229 Attorney Gocha Allen Ramirez made an about-face on an indictment against 26-year-old Lizella Herrera, a pregnant woman charged with self-abortion, announcing the decision on Facebook. District 229 covers Starr, Jim Hogg and Duval counties in south Texas.

Herrera was arrested on Thursday in Rio Grande City, Texas, being indicted by a grand jury on March 30 on charges of “self-induced abortion.” She was released on \$300,000 bond Saturday after an abortion rights advocacy fund posted her bail. A grand jury indictment is initiated by the district attorney, who presents his version of the evidence to determine whether there is probable cause to bring charges.

Ramirez stated that the case stemmed from a report made to police by a local hospital in January. He said it was not a criminal matter under Texas law, adding, “In reviewing applicable Texas law, it is clear that Ms. Herrera cannot and should not be prosecuted for the allegation against her.”

In the same statement, Ramirez said, “In reviewing this case, it is clear that the Starr County Sheriff’s Department did their duty in investigating the incident brought to their attention by the reporting hospital. To ignore the incident would have been a dereliction of their duty. Prosecutorial discretion rests with the District Attorney’s office, and in the State of Texas a prosecutor’s oath is to do justice. Following that oath, the only correct outcome to this matter is to immediately dismiss the indictment against Ms. Herrera.”

That is, that violating medical privacy of and arresting a woman for suspected self-abortion, then imposing a six-figure bail, is acceptable, but that the

law doesn’t specifically allow the prosecution of a woman for this alleged offense—at least not yet. This is an about-face from the indictment issued by the same office signed March 30 that said Herrera “did then and there intentionally and knowingly cause the death of an individual J.A.H. by a self-induced abortion.”

The initial indictment provoked widespread anger, with #freelizelle trending on Twitter, reflecting the mass opposition to attacks on abortion. Contrary to the opposition to abortion in the Republican Party and sections of the Democratic Party, polls show that the majority of the US population support abortion rights. A Pew Research poll released in May 2021 puts the number who support abortion in “all or most cases” at 59 percent. Other polls put the figure much higher, such as Gallup finding 80 percent support for abortion rights the same month.

The exact reason Ramirez reversed is unknown, but the DA’s explanation—that he, the chief prosecutor in the area, apparently lacked knowledge on the subsection omitting self-abortions—is unconvincing. It is more likely that the DA feared publicity over the case or was advised against it.

No explanation was given by Ramirez as to why the initial indictment was filed in the first place.

Some of the public comments pointed out the obvious contradiction between Ramirez’s previously issued indictment and his subsequent decision, as well as the lack of transparency on the case.

Of the Democratic Party hacks commenting on the situation, most feigned a sigh of relief or stayed silent while the others tried to seize on the matter as another justification for voting for Democrats in the 2022 elections.

The facts on the ground fly in the face of the Democrats' claims that somehow, voting Democratic will defend the right to abortion, or any other democratic right for that matter.

Ramirez is affiliated with the Democratic Party. He won the Democratic primary against Omar Escobar Jr., the previous DA, in March 2020 and took office January 1, 2021, facing no Republican opposition. Ramirez paid \$1,250.00 to the Democratic Party of Texas on November 20, 2019, as part of his campaign according to Transparency USA, a website on money in politics. This payment was likely in order to obtain voter information from the Democratic Party's database for the purpose of campaigning.

That Ramirez's office filed an indictment in the first place is an indictment of the Democratic Party, which postures as a defender of abortion rights while doing nothing of the sort, as well as an exposure of the claims that the defense of abortion rights can be waged from within the straitjacket of the Democratic Party.

This comes as no surprise, as the Democratic Party has previously supported anti-abortion candidates in state elections.

At least 38 states including Texas have "fetal homicide" laws on the books. In Texas, this law does not apply to women accused of performing self-abortions. As the WWSWS wrote in 2011: "Backers of these laws have claimed that they are intended to protect women and their unborn children from attack by an abusive partner or other third parties, but state prosecutors have seized upon the legislation to attack the rights of pregnant mothers."

While under Texas law, abortion isn't a criminal offense, abortion is effectively banned under civil law under the "fetal heartbeat" rule after about six weeks of pregnancy—well before most women even know they are pregnant. The law allows anyone to sue women or anyone who "aids or abets" an abortion for \$10,000.

The obvious effect the arrest will have, regardless of the outcome of the case, is to discourage pregnant women from going to hospitals. Some pregnant women will avoid them, fearing criminal prosecution.

The case is part of the assault on democratic rights as a whole, and abortion specifically, and follows other similar attacks. An Oklahoma woman, Brittney Poolaw, was sentenced to four years in prison for a miscarriage in October 2021 despite abortions being permitted at up

to 22 weeks at that point. Since Poolaw was imprisoned, Oklahoma has criminalized most abortions, making performing one a felony.

Medical privacy is violated in the course of ascertaining the violation of Texas's draconian anti-abortion law and in the "fetal murder" law. These are the rights guaranteed under *Roe v. Wade*, which are tied to Fourth Amendment protections against unwarranted search and seizure. *Roe v. Wade* has been under attack under successive Democratic and Republican administrations, with the Supreme Court being very close to rescinding this fundamental democratic right altogether.

The attack on abortion rights serves as a more insidious way of attacking Fourth Amendment rights, and democratic rights as a whole, which have been under relentless assault for decades as the ruling class increasingly does away with democratic forms of government, turning to authoritarian forms of rule to suppress domestic dissent produced as a result of staggering levels of social inequality.

Texas Republican Governor Greg Abbott has worked relentlessly to attack abortion rights, and the rights of refugees to asylum, alongside both Trump and Biden administrations, both of whom have escalated attacks on immigrants. Alongside Texas Attorney General Ken Paxton, Abbott participated in Donald Trump's fascist coup attempt and has continued to toe the Republican Party line that the 2020 election was stolen.

The role of Ramirez shows that the Democratic Party can no more be relied on to defend democratic rights than the fascistic Republicans.



To contact the WWSWS and the
Socialist Equality Party visit:

wsws.org/contact