

# New Mexico judge clears former Las Cruces cop of second-degree murder from lethal chokehold

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On July 14, a New Mexico District Court judge cleared former Las Cruces Police Department (LCPD) officer Christopher Smelser of second-degree murder charges through the use of a chokehold that killed 40-year-old Antonio Valenzuela on February 29, 2020. Judge Douglas Driggers ruled that there was “insufficient evidence” to continue with the trial and dismissed the charges.

Smelser and fellow officer Andrew Tuton stopped a vehicle in which Valenzuela was a passenger. They learned that he had a warrant for a parole violation. Valenzuela fled on foot, and they chased him, using Tasers on him twice. Bodycam footage shows that Smelser tackled Valenzuela and the two struggled.

According to a news release by the Doña County District Attorney’s Office, “Valenzuela was continually struggling to get away. Once on the ground, during this struggle, Officer Smelser applied a vascular neck restraint technique to gain control.”

Smelser is heard in video footage saying, “If you don’t fucking stop, bro, I’m going to fuck you up,” and, “I’m going to fucking choke you out, bro.”

In the video, Valenzuela groans for about a minute as Smelser repeatedly says, “Give up, bro.” When Valenzuela stops struggling and lies motionless, Smelser says, “Yeah, he’s out.”

Attempts by paramedics to revive Valenzuela were not successful.

The autopsy found that Valenzuela had died from “asphyxial injuries due to physical restraint.” Methamphetamine was listed as a significant contributor to his death.

The autopsy mentioned “small pinpoint hemorrhages”—consistent with Valenzuela having his

neck or chest compressed—in his eyes and eyelids, as well as “evidence of focal, deep muscle hemorrhage and a fracture” to his Adam’s apple, a report from the Office of the Medical Investigator determined.

“The presence of methamphetamine in Mr. Valenzuela’s system during the struggle and restraint likely increased his baseline oxygen demands and placed increased stress on his cardiovascular system, contributing to death,” it said.

The killing triggered protests denouncing the use of the chokehold and demanding that Smelser be put on trial for murder.

After placing Smelser on administrative leave for months, the LCPD fired him on June 4, 2020, and announced that it had banned the use of the chokehold. The city agreed to pay Valenzuela’s family \$6.5 million.

After more than two years, Smelser’s trial began on July 11, and prosecutors called thirteen witnesses to testify before resting its case. Among the witnesses, Tuton testified that he believed that Valenzuela was reaching for a gun during the struggle, but no gun was found.

Smelser’s defense attorneys argued that prosecutors failed to prove he knew his actions were dangerous and created a risk of death or great bodily harm to Valenzuela. The judge agreed with their arguments and dismissed the case.

Though New Mexico Attorney General Henry Balderas (Democrat) said that the judge “got it wrong” and prevented the jury from deciding on the evidence, he said that there would be no appeal.

The next day, the Valenzuela family and members of some community organizations held a protest at a local

park. Antonio's sister Valerie Chavez told the protesters, "The dismissing of my brother's case was totally disgusting," and Daniel Sanchez, an organizer with New Mexico Comunidades en Accion y de Fe or NM CAFé, said, "If [the city and police department] are telling us they're doing the best they can, they're lying to us."

Sanchez also alluded to two other recent police killings in the southern New Mexico city: the shooting of 75-year-old Amelia Baca on April 16, and of 56-year-old Carlos Gamboa on May 21. Both were suffering from mental health crises at the time of their violent deaths.

A number of activists and organizations, including NM CAFé and the Doña Ana Branch of the National Association for the Advancement of Colored People, have held meetings to discuss measures to stop the spate of police killings that have plagued the city and the state. However, they are hamstrung by their reformist perspective.

At a meeting in June, participants—including Doña Ana County Sheriff Kim Stewart (Democrat)—broke into focus groups and came up with some predictable proposals, among them: creating a police oversight board; finding ways to increase transparency and accountability; building institutions that foster community and police collaboration.

At the end of the meeting, Sanchez told reporters, "Police reform is important to a lot of demographics and a diverse group of citizens. There's not a magic solution that's going to fix everything. If we make small incremental adjustments and changes, we can see progress."

These attempts at reform have failed over and over in cities across the US. One of the most egregious examples of that failure lies 222 miles to the north. Albuquerque has carried out police "reforms" including citizen review boards, the use of bodycams and, most infamously, the Department of Justice settlement agreement of 2014. The result: Police-involved shootings and other forms of violence continue unabated, as exemplified most recently by the death of 15-year-old Brett Rosenau during a SWAT team siege on July 7.

Police under capitalism, especially capitalism in an ever-deepening crisis, cannot be reformed to defend the working class. Their job is to "protect and serve"

capitalist class rule, and as the social crisis gets more acute—COVID, austerity, war—they will respond with more, not less violence. And as recent events in Akron, Ohio, and other cities have shown, it is bipartisan.

The working class must rely on its own resources to erase the scourge of police violence by sweeping away the capitalist system in the fight for socialism.



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