

Omaha Boils After No Charges in Death of Black Protester

Demonstrators came out to the streets after prosecutors decided not to charge the white shooter—and cops responded by rounding them up after curfew.

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OMAHA—Protesters came out by the hundreds on Monday evening after prosecutors in this Nebraska city decided not to charge a white bar owner who shot a young black man to death during unrest two nights earlier.

“We will not let others antagonize us or scare us. We’re also not going to accept people who degrade us as a people,” Tyreese Johnson, 20, told The Daily Beast.

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Kimana Barnett, 18, came out with her friends after seeing news about the shooting on social media. “You never hear about something like this in Omaha. It’s supposed to only happen in big cities,” she said. “This was, like, a what-the-fuck moment.”

The protest in the Old Market section was initially a peaceful scene, with some of the many cops taking a knee in solidarity with the crowd.

But things turned ugly after a curfew passed and some water bottles were thrown, with officers and National Guard members surging in and arresting people—including journalists exempt from the curfew—en masse.



Protesters in Omaha are angry that Douglas County Attorney Don Kleine chose not to bring charges against a white bar owner who killed a black man.

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The city had been bracing for trouble all day, with businesses and offices downtown closing up even before Douglas County Attorney Don Kleine announced Jake Gardner would not be charged for killing James Scurlock, 22, during a confrontation on Saturday night.

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"The actions of the shooter, the bar owner, were justified," Kleine said at a press conference.

"This decision may not be popular," he added.

At a press conference, Kleine played several video clips of a minute-long confrontation that unfolded between Gardner, the owner of The Hive and The Gatsby nightspots, and a small group of young people.

The footage showed Gardner, a 38-year-old ex-Marine, and his 68-year-old father standing outside The Gatsby, where windows had been broken as protests stemming from the killing of George Floyd in Minneapolis devolved into vandalism.



James Scurlock, 22, was killed Saturday night in a confrontation with bar owner Jake Gardner.

Handout

The father walked down the street to confront the young black men, shoved one of them, and then got "decked" and pushed back about 10 feet, Kleine said.

The younger Gardner then confronted the group and showed that he was carrying a gun, Kleine said. Suddenly, the video shows, two of the young people charged at Gardner and knocked him into a puddle on the street—at which point he fired two shots he claimed were warnings.

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The duo ran off, and then "James Scurlock jumps on top on him," Kleine said. Gardner "fired over his back" and hit Scurlock in the clavicle, killing him.

Kleine said Gardner gave police and prosecutors his version of events: "He begged and pleaded for this person to get off. This person was trying to get at his gun."

"He says, I was in fear for my life so I fired the shot," the prosecutor added.

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Scurlock's father, who is also named James, told reporters that he wanted a grand jury empaneled to examine the evidence and make a decision.

"I honestly feel that if Mr. Gardner's father would have kept his hands to himself, the incident wouldn't have happened in the beginning," he said.

"What I want is justice, not a quick answer."

State Sen. Justin Wayne noted that Kleine acknowledged Gardner's permit for a concealed weapon was expired, but that he would not be charged in connection with that.

"In this community, we prosecute black and brown individuals a lot more for things like we just watched," Wayne said. "We watched a video where anybody else would have gotten charged with something."

Even before showing the videos, Kleine had castigated local politicians for calling it a "cold-blooded murder" and said reports on social media that racial slurs were used were not supported by the video or by testimony from Scurlock's friend and a protester.


He also said that a few minutes before the killing, Scurlock was caught on video vandalizing the lobby of a building down the street. "But I don't think that's relevant at this time," Kleine added.



The death of James Scurlock was on the mind of many protesters who gathered near the spot where he was shot dead during a night of chaos.

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For his part, Gardner has been arrested on criminal charges at least four times, public records show.



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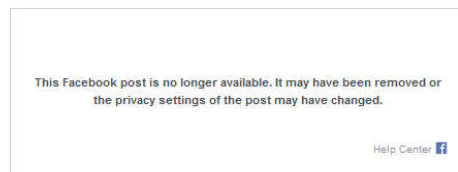
In 2013, police picked him up on assault and battery charges, and also hit him with a count of failing to tell an officer he had a concealed handgun. The gun charge was dismissed in a plea deal that saw him pay \$200 in fines.

In 2011, after being nabbed for alleged reckless driving, he was also charged with carrying a concealed weapon, which was downgraded to disturbing the peace in a plea deal that resulted in a \$200 fine.

Gardner's record also includes two arrests from 1998 and 1999, one for reckless driving and one for third-degree assault, and a number of traffic offenses.

Court records that would provide details of each arrest were not available. Gardner's family declined to comment, and refused to provide The Daily Beast with the name of his attorney.

Scurlock also had a criminal record—but that almost certainly would not have been known to Gardner. It included a one-day jail sentence for misdemeanor assault in 2019 and 90-day sentence for misdemeanor domestic assault in February. A 2014 armed robbery charge was downgraded to burglary, public records show.



A self-described Libertarian, Gardner had been a source of controversy in Omaha well before last weekend.

In 2016, he caused a furor when he wrote on Facebook that transgender women should have had their “appendage” removed if they want to use female bathrooms.

“I’m asking transgender folk to use the unisex... bathroom,” he told the *World-Herald* at the time. “I don’t think it’s a big ask.”

The Hive had also been the target of several complaints on social media that it discriminated against black patrons, with one person tweeting that Gardner personally refused entry to her black husband while letting her white brother go in.

Last year, the State Liquor Authority issued a warning to Gardner for failing to cooperate with police who were investigating a possible assault on site.

He has been up front about his political and philosophical views. In 2017, while in Washington to attend President Trump's inauguration, he was interviewed about the Women's March then underway.

"Everyone has a right to speak their mind," he said, wearing a Trump sweatshirt, with his dog Bron in a MAGA vest. "Everyone loves the dog until they see the vest," he said of the marchers.

He posted a photo in 2017 of himself and Bron posing with Donald Trump Jr. with the caption: "Here's a guy who returns my emails 100 percent of the time, every time. #FAKENEWS #BRONANDDON."

With reporting by William Bredderman

