

No Death Penalty: Tyler Robinson's Attorneys Launch Plan to Keep Charlie Kirk's Accused Murderer Off Death Row

Attorneys for accused Charlie Kirk assassin Tyler Robinson are attempting to lessen his chances of receiving the death penalty if convicted by claiming that the alleged shooter did not put anyone but Kirk in danger.

According to the New York Post, Robinson's attorneys argued Tuesday that since the bullet traveled above the crowd where Kirk was speaking and only "hit the intended target," it does not qualify as an aggravating factor under Utah's death penalty statute.

"The only evidence presented supports that the bullet traveled above, not through, the crowd," defense attorneys said.

The fact that Robinson endangered others when he allegedly shot the Turning Point USA founder at an event at Utah Valley University in September of 2025 was one aggravating factor put forth by the prosecution, which noted in court documents last month that Robinson's rifle was loaded with four bullets, according to the Associated Press.

This, they said, showed Robinson knew there was the possibility of missing Kirk, "thereby putting others in danger."

Defense attorneys countered that "it is just as likely that the shooter did not believe he would miss."



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The defense also is seeking to mitigate another potential aggravating factor by saying that Robinson did not target Kirk over his politics.

The prosecution contends that there's a strong body of evidence, including texts and a note, which indicated that Kirk's opposition to transgender ideology and homosexuality played a critical role in his motive for shooting Kirk.

Robinson was in a romantic relationship with his roommate Lance Twiggs, a male who identified as transgender and was considering undergoing medical "transitioning" around the time of the murder, he told investigators.

The applicable code, Utah Code Ann. § 76-5-202, contains numerous aggravating factors which raise murder to a "capital felony."

However, as University of Utah criminal law professor Paul Cassell noted in a September 2025 article at libertarian outlet Reason shortly after Kirk's assassination, the prosecution almost immediately charged Robinson with having "knowingly created a great risk of death to another individual other than Charlie Kirk and the defendant" as the aggravating circumstance.

"In my view the prosecutors have a strong case that Kirk's murder fits within that aggravating circumstance, and thus that Robinson (if proven guilty) is eligible for the death penalty," Cassell wrote, noting that he taught this subject regularly – and that Utah's criteria for death-penalty eligible murders differ significantly from other states, where simple premeditation can suffice.

For a murder to be death-eligible in Utah, prosecutors must prove a specific aggravating circumstance—beyond the fact of

intentional murder. The facts alleged (if proven) make clear that Robinson acted with premeditation and, indeed, was lying in wait to get the opportunity to shoot Kirk. Under some homicide statutes, that premeditation alone might well be sufficient to seek the death penalty. For example, in California, a murder committed with malice aforethought (i.e., without provocation) becomes death eligible where “[t]he defendant intentionally killed the victim by means of lying in wait.”

*Under Utah’s murder statute, however, there is no general aggravation for lying in wait or clear premeditation. With some exceptions, Utah’s criminal law statutes generally follow the Model Penal Code (MPC), which was drafted by the American Law Institute in the late 1950s and early 1960s to rationalize criminal statutes. The MPC abandoned the distinction between premeditated and “merely intentional” murder, providing for only a single degree of murder. When Utah revised its criminal code in around 1973, it followed the MPC’s approach to categorizing homicides. See generally Paul N. Cox, *Utah’s New Penal Code*, 1973 *Utah L. Rev.* 718.*

Even though the crowd was not in Robinson’s line of sight to Kirk and the bullet traveled over them, Cassell did not believe that a defense argument against this as an aggravating factor would hold water – although he conceded that such rulings were rare.

“It appears that Utah caselaw contains only a handful of decisions interpreting the ‘great risk of death’ provision,” Cassell wrote.

“The gist of these decisions is that the defendant’s murder is aggravated if the defendant place another person within the ‘zone of danger’ of death.”

The most recent case in which this was upheld as an aggravating factor was in 2019, when a man shot and killed an

employee of a smoke shop while his back was turned to another individual.

However, in that case, the defendant had previously fired a shot at the survivor, which missed, before turning his attention to the victim.

The decision also cited a New Jersey case, where the laws are similar, noting that “the facts must include a knowing or purposeful state of mind vis-a-vis the creation of a great risk of death, that there be a likelihood or high probability of great risk of death created, not just a mere possibility... and that there be at least another person within the ‘zone of danger’ created by defendant’s conduct.”

While other aggravating factors could make Robinson eligible for the death penalty, the prosecution is leaning heavily on the language that Robinson “knowingly created a great risk of death to a person other than the victim and the actor.”

The prosecution has until Aug. 18 to respond to the defense’s filings. Closing arguments in the preliminary hearings for the Robinson case are scheduled to wrap up on Sept. 1, at which point the judge will decide whether Robinson will go to trial and face capital charges if he does.

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