

Dershowitz: 'Black Lives Matter Is Endangering the Fairness of Our Legal System'

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Tuesday on Fox News Channel's "The Kelly File," Harvard Law School professor Alan Dershowitz reacted to a judge's decision early this week in the Freddie Gray case to acquit Baltimore Police Officer Edward Nero of any wrongdoing in the death of Gray.

Dershowitz warned the Black Lives Matter movement, which was part of the calculus in State's Attorney Marilyn Mosby's decision to prosecute the officers involved in the case, was endangering the criminal justice system. He also said Mosby's insistence on prosecuting them opened her up to the possibility of being gone after for malicious prosecution.

Partial transcript as follows:

MEGYN KELLY: Alan Dershowitz is a Harvard Law professor and author of "Taking the Stand, My Life in the Law." Great to see you, professor.

ALAN DERSHOWITZ, HARVARD LAW SCHOOL PROFESSOR: Thank you.

KELLY: You say this is serious misconduct by this young woman, by this prosecutor, why?

DERSHOWITZ: Overcharging. She charged one officer with murder to base on deprave, depraved heart. These are officers who, you know, may have made a mistake but they are not guilty of criminal conduct.

What she tried to do is stop the mob. I understand that, but you don't use the criminal justice system to solve racial problems. And she's a symptom of a larger problem.

Black Lives Matter is endangering the fairness of our legal system. Because they're rooting for outcomes based on race. Started a long time ago. Started with the O.J. Simpson case.

KELLY: You know a thing or two about this.

DERSHOWITZ: African-Americans wanted an acquittal without regard to the evidence. Now, many want convictions without regard to the evidence. We cannot allow our justice system to be turned into a kind of racial categorization where people root for outcome.

KELLY: And that we're seeing that here in some of the reporting today about this case. They mentioned the race of Officer Nero, white, the race of Freddie Gray, black, and they failed to mention the race of the judge who tried the case who is African-American.

DERSHOWITZ: Or the lawyer for the family who is African-American who said the judge came to the right conclusion.

KELLY: That's right.

DERSHOWITZ: Even though his client was killed.

KELLY: But they, you know, we had a guy on the show last night who didn't want to listen to anything about it. And I kept asking what did Officer Nero do, tell me specifically what he did.

And all he kept saying, and a lot of the media today was saying, this is basically the standards need to be changed so we can make it easier to get these cops.

DERSHOWITZ: Well, you can't change proof beyond a reasonable doubt. You can't change better 10 guilty go free than one innocent be wrongly confined. That's what American is all about. And we can't allow racial differences which is serious. Racial problem were serious to distort our criminal justice system.

KELLY: Could you go after Mosby for malicious prosecution?

DERSHOWITZ: Yes. I think this is politically motivated prosecution. I think the voters have to go after her, and I think the voters will because she oversold the case and everybody's disappointed.

The black community's disappointed because she didn't get results and she probably won't get results. Many in the white community disappointed because she overcharged police officers who were doing their duty, but this goes beyond Baltimore.

KELLY: And told the community — told the community this is — this is your moment.

DERSHOWITZ: Yes.

KELLY: No, it's not your moment, it is not.

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