

'Good luck' trying to charge guillotine protesters: Stilman

By AdvocateDaily.com Staff



Demonstrators' use of a fake guillotine to protest planned cuts by the Ontario government should be seen more as "political theatre" than a threat to Premier Doug Ford, Toronto criminal lawyer [Jacob Stilman](#) tells the [National Post](#).

The newspaper reports that the performance art piece carried by protesters last week included a fake guillotine smeared with red paint and signs "No cuts but this cut," and "May history repeat itself, Chop, Chop!"

The *Post* says that the premier's office informed the Ontario Provincial Police (OPP) about the demonstrators and that Social Services Minister Lisa MacLeod said their actions constituted a "credible threat."

However, Stilman, partner with [Lo Greco Stilman LLP](#), says, in this instance, he believes the protesters' freedom of expression is protected by s. 2 of the Charter, telling the newspaper that such acts must be viewed in context.

For example, if you say "I'm going to kill you" to a tennis opponent, you don't have to include "at tennis," to avoid being charged with uttering threats. The situation makes the intent clear, he tells the *Post*.

However, the act of placing a noose on the doorstep of a black family to invoke the idea of lynching — could be a criminal threat or a hate crime, Stilman says.

"Some kinds of gestures have very obvious resonances historically, and allusions to actual violent events," he tells the newspaper.

However, the use of the fake guillotine doesn't reach that threshold, Stilman says in the *Post* article.

He says while protesters have been burning politicians in effigy for centuries, the act is generally not considered a threat, adding trying to have the demonstrators charged by the OPP would be "silly."

"Good luck to them making that case," Stilman tells the *Post*. "I can't see any police officer, and no Crown attorney, and absolutely no judge, ever finding that this demonstration amounts to a threat.

"... It's childish for a party that puts itself out there by getting elected to go running to police every time their feelings are hurt," he says. "Leaving politics out, it's very troubling when one of our highest-ranking officials starts trying to use the police to quell a protest."

Stilman says such an action is "on a continuum" with the federal Liberals' alleged political interference in a criminal matter involving the SNC-Lavalin affair.

"And I don't need to tell you that we're seeing this sort of thing south of the border — it's out of the Trump playbook."