

Published on *National Catholic Reporter* (<https://www.ncronline.org>)

Sep 21, 2010

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## A peace movement victory in court

by John Dear

On the Road to Peace

"Fourteen anti-war activists may have made history today in a Las Vegas courtroom when they turned a misdemeanor trespassing trial into a possible referendum on America's newfound taste for remote-controlled warfare." That's how one Las Vegas newspaper summed up our stunning day in court last Tuesday, Sept. 14, when fourteen of us stood trial for walking on to Creech Air Force Base last year on April 9, 2009 to protest the U.S. drones.

We went in hoping for the best and prepared for the worst. As soon as we started, the judge announced that he would not allow any testimony on international law, the necessity defense or the drones, only what pertained to the charge of "criminal trespassing."

With that, the prosecutors called forth a base commander and a local police chief to testify that we had entered the base, that they had given us warnings to leave, and that they arrested us. They testified that they remembered each one of us. Then they rested their case.

We called three expert witnesses, what the newspaper called "some of the biggest names in the modern anti-war movement." These were: Ramsey Clark, former U.S. attorney general under President Lyndon Johnson; Ann Wright, a retired U.S. Army colonel and one of three former U.S. State Department officials who resigned on the eve of the 2003 invasion of Iraq; and Bill Quigley, legal director for the New York City-based Center for Constitutional Rights. We presumed they would not be allowed to speak.

All fourteen of us acted as our own lawyers, and were not allowed any legal assistance, so members of our group took turns questioning our witnesses, and trying not to draw the judge's wrath. Lo and behold, the judge let them speak, and they spoke for hours.

They were brilliant. They spoke about the meaning of "trespassing," and the so-called necessity defense and international law, which allows citizens to break minor laws in adherence to a higher law. Ramsey Clark, looking like Atticus Finch on the stand, said it was a duty.

They cited the classic example of someone driving down a street, seeing a house on fire, noticing a child in the third floor window, hearing the screams, breaking through the front door, violating the no trespass law, and entering the house to save the child.

"[People] are allowed to trespass if it's for the greater good -- and there are certainly exceptions [to the law] when there is an emerging, urgent need," said Quigley.

He cited the history of protesters who broke petty laws, from our nation's founders to the Suffragists to the civil rights activists who illegally sat in at lunch counters. In the long run, we honor them for obeying a higher law, for helping to bring us toward justice, he said. Unfortunately, there is a gap between "the law" and "justice," and so, he explained, the struggle today is to narrow that gap. The best test is through "a hundred year vision," he explained. That is, how will this law and ruling be seen one hundred years from now?

The prosecutors challenged each witness, but their questions only enabled the witnesses to speak further on our behalf. When they were asked if they actually knew us, the prosecutors and judges were stunned to hear that they were our friends, in some cases, lifelong friends. When the prosecutors presented our experts' articles from the internet in order to discredit them (such as Bill Quigley's superb Common Dreams piece, "Time for a U.S. Revolution -- Ten Reasons"), that only added fuel to their fire. Bill launched into an eloquent plea for citizens to stand up and work for nonviolent change.

Through carefully crafted questions, the defendants were able to extract several key points from their witnesses:

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- Intentional killing is a war crime, as embodied in U.S. constitutional law.
- Drone strikes by U.S. and coalition forces kill a disproportionate number of civilians.
- People have the right, even the duty, to stop war crimes.
- According to the Nuremberg principles, individuals are required to disobey domestic orders that cause crimes against humanity.

After our experts testified, co-defendant Brian Terrell told the judge we would now call five of us to take the stand. The judge said he would not recommend that. So our group huddled together for a minute.

"He's sending us a signal," co-defendant Kathy Kelly said. "He's telling us not to call any more witnesses, that if one of us testifies that we crossed the line under cross examination, he will have no choice but to find us guilty. Let's rest our case." So, despite days of preparation, we did.

With that, Brian Terrell stood up and delivered a short, spontaneous closing statement. It was one of the most moving speeches I have ever heard. Here are excerpts:

Several of our witnesses have employed the classic metaphor when talking of a necessity defense. There's a house on fire, and a child crying from the window and there's a no trespassing sign on the

door. Can one ignore the sign, kick down the door and rescue the child?

It was a great privilege for us to hear Ramsey Clark, a master of understatement, who put it best. "Letting a baby burn to death because of a no trespass sign would be poor public policy."

I submit that the house is on fire and babies are burning in Afghanistan, Iraq and Pakistan because of the activities at Creech AFB.

The baby is burning also in the persons of the young people who are operating the drones from Creech AFB, who are suffering from post traumatic stress disorder at rates that even exceed that of their comrades in combat on the ground.

Colonel Ann Wright testified that soldiers do pay attention to what is going on in the public forum, and that they do respond to a "great debate" in the public sphere. There is no great debate going on about drone warfare in our country. Some have noted that the trend toward using drones in warfare is a paradigm shift that can be compared to what happened when an atomic bomb was first used to destroy the city of Hiroshima in Japan.

When Hiroshima was bombed, though, the whole world knew that everything had changed. Today everything is changing, but it goes almost without notice. I hesitate to claim credit for it, but there is certainly more discussion of this issue after we were arrested for trespassing at Creech AFB on April 9, 2009, than there was before.

Judge Jansen, we appreciate the close attention you've given to the testimony you've heard here. The question that you asked Bill Quigley, -- "Aren't there better ways of making change than breaking the law?", is a question we are often asked and that we often ask ourselves.

It was a question that was asked of Rev. Martin Luther King, Jr. in 1963 when he was in jail in Birmingham, Alabama. Several clergy people of Birmingham wrote a letter to Dr. King asking him the very same questions that you asked Professor Quigley. Isn't there a better way? Why sit-ins? Why marches, why protests? Isn't negotiation the better way?

Dr. King's reply to these questions ? in his famous Letter from the Birmingham Jail, which is regarded by many as one of the finest things ever written in the English language - heartily agreed that negotiation is the better way. But, he said that a society that refuses to face crucial issues needs "nonviolent gadflies" using direct action to raise the level of awareness and raise the level of "creative tension" for a society to rise from the depths of monologue to the majestic heights of dialogue, where the great debate that Colonel Ann Wright says we need, can happen.

The house is on fire. And we fourteen are ones who have seen the smoke from the fire and heard the cries of the children. We cannot be deterred by a No Trespassing sign from going to the burning children.

As he finished, Brian burst into tears and sat down. Many in the courtroom wept. Then Judge Jansen stunned us by announcing that he needed three months to "think about all of this" before he could render a verdict. He marked twenty five years on the bench just the day before, he said, and this was his first trespassing case and he wanted to make the best decision he could. There is more at stake here than the usual meaning of trespassing, he noted. The prosecutors were clearly frustrated and disappointed. With that, we were assigned a court date of January 27, 2011, to hear the verdict. As he left, he thanked the fourteen of us and the audience, and then seemed to give a benediction: "Go in peace!" Everyone

applauded.

"By all accounts, the Creech 14 trial is the first time in history an American judge has allowed a trial to touch on possible motivations of anti-drone protesters," the local paper said.

While I wish he had immediately found us Not Guilty and sent a signal to the U.S. military that these weapons are illegal, it was astonishing to watch this judge begin with his hostile directives and then slowly listen to the testimony of our friendly experts, and then conclude that he needed more time to seriously consider their argument. That alone was a minor victory. I wish everyone in the United States would take time to reconsider our drone program, beginning with the president, the Secretary of State, Pentagon officials, military officers, and Creech Air Force Base employees. The more one thinks about it, the more we realize how terrifying it is, and the harm it will inflict on the whole world for generations to come.

We saw that future as we walked onto Creech Air Force Base on April 9, 2009. We wanted to rescue the children and civilians who are being killing by our "Unmanned Aerial Vehicles," as they're called.

I hope and pray the judge will "think" about the drones, and issue a verdict on our behalf, on behalf of all the victims of our drones, on behalf of the world's children, that we might reject the drones, learn nonviolent ways to resolve international conflict, and let everyone live in peace.

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John will be speaking in Nova Scotia from Sept. 23-26, and on Sept. 27, at Drew University. His latest book, *Daniel Berrigan: Essential Writings* (Orbis), along with other recent books, *A Persistent Peace* and *Put Down Your Sword*, as well as Patricia Normile's *John Dear On Peace*, are available from [www.amazon.com](http://www.amazon.com). To contribute to Catholic Relief Services' "Fr. John Dear Haiti Fund," go to: <http://donate.crs.org/goto/fatherjohn>. For further information, see: [www.johndear.org](http://www.johndear.org).

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