

The law versus justice

Vegas anti-drone trial makes history

by JASON WHITED : JWHITED@LVCITYLIFE.COM

By all accounts, 14 anti-war activists made history last week 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.

The so-called Creech 14, a group of peace activists from across the country, went on trial Sept. 14 to face allegations they trespassed onto Creech Air Force Base in April 2009.

From the start of the trial, prosecutors did their best to keep the focus on whether the activists were guilty of illegally entering Creech property and refusing to leave to protest the base's role as the little-known nerve center for U.S. military operations involving unmanned aerial vehicles, or drones, over Afghanistan, Iraq and Pakistan.

But, in a surprising turn of events, the activists dashed prosecutors' hopes for a quick decision.

Representing themselves, the Creech 14 used a classic Civil Rights era defense to fight the charges -- and clearly to frustrated prosecutors by convincing Las Vegas Township Justice Court Judge William Jansen to delay his verdict for four months.

Employing a so-called necessity defense, the activists argued they were justified in trespassing onto the base because their intent was to alert people about crimes being committed there -- in this case, the large numbers of innocent civilians routinely killed by military drones remotely controlled by Creech pilots. (Similar versions of the necessity defense were used successfully by many who protested America's racially segregated lunch counters, schools and public transportation in the '50s and '60s.)

The activists' legal strategy marked the first time an American judge has allowed consideration of the necessity defense in a drone trespassing trial, giving activists hope, they said, that the dangers of automated warfare are beginning to be debated openly.

"This trial represents the beginning of the discussion about these weapons, and we saw that here in court today," said California-based activist and Jesuit priest Steve Kelly after Jansen postponed his decision.

Passionate throughout the trial, but delivering questions and counter-arguments in a measured and thoughtful tone, Kelly did much of the talking for the Creech 14.

Making the case clearly while recalling what motivated similar incidents of trespassing by civil rights activists through the years, Kelly tightened a legal noose slowly, yet firmly, around prosecutors' demands that the trial focus solely on the charges at hand.

Kelly did so with the help of some of the biggest names in the modern anti-war movement: 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 in protest of the 2003 invasion of Iraq; and Bill Quigley, legal director for the New York City-based Center for Constitutional Rights.

For the better part of the day, Clark, Wright and Quigley testified under direct questioning from witnesses and a surly cross-examination from Clark County Chief Deputy District Attorney Michael O'Callaghan, who unsuccessfully argued their testimony should be stricken from the record.

Each witness spoke eloquently, and at length, about the need for nonviolent civil disobedience in the face of criminal actions by the U.S. government -- which is how most in today's anti-war movement and many international observers have characterized America's drone war.

"[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, while on the stand.

One of those urgent needs could be acting to prevent a crime, according to Clark, a legal giant whose appearance on the witness stand threw an immediate hush over the courtroom.

"Is it possible that things could become urgent enough, or especially in the case of the prevention of a crime, where a person would have to forgo, or suspend, what would be normal conventions or interpretations of the law to do something that was necessary?" Kelly asked.

"Certainly," Clark replied. "And when dealing with the government, you have to be aware of, and respect, constitutional rights. Petitioning the government cannot be abridged. If your intention is to petition the government, and you can't petition it without [trespassing], in ordinary circumstances your act would be protected by the First Amendment to the United States Constitution."

The appearance of three such renowned witnesses, the testimony they gave, and the activists' stated need to break the law to prevent future war crimes was certainly unusual for a local trespassing trial.

In fact, perhaps the judge explained the mood of the day best. "Yesterday was my 25th anniversary [on the bench], and I can't remember ever having a trial on trespassing," Jansen said as he delayed his decision until January. "But this case here has a lot more consequences than trespassing."

No one knows how Jansen will ultimately rule, but most took it as a good sign when, at the end of the day's proceedings, Jansen sent the Creech 14 -- many of them part of a robust Catholic anti-war movement -- on their way by echoing the closing words of the Mass with his call of "Go in peace!"

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PHOTO: BILL HUGHES
Father John Dear, left, one of the defendants in the Creech 14 trial, and Peter Ediger, one of their supporters, outside the courthouse.

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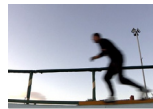
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