

Boyle about the illegality of nuclear weapons under both international and US law. “[T]hese defendants acted lawfully and reasonably to prevent the most egregious and fundamentally prohibited of all crimes, war crimes,” Boyle wrote in a declaration. He concluded that the defendants did not have the criminal intent required to convict them of the charged crimes.

But while the “Defendants’ *subjective* beliefs about the illegality of nuclear weapons may be relevant background information, whether nuclear weapons are *actually* illegal under international or domestic law (a doubtful proposition) is not relevant or an appropriate issue to litigate in this case,” Judge Lisa Godbey Wood wrote.

Refusal to Allow Religious Freedom Restoration Act Defense

The judge also denied the defense motion to argue that the prosecution violated their rights to religious exercise protected by the Religious Freedom Restoration Act (RFRA). Although the judge concluded that the defendants had established the prima facie elements of a RFRA defense, the government demonstrated a compelling interest in prosecuting the defendants for their actions at Kings Bay, citing the safety of individuals on the base, the security of the assets there, and the smooth operation of the base.

If the jury would have heard the facts about the nuclear bombs headquartered at Kings Bay ... they would probably have come to a different decision.

—Defense Attorney
Bill Quigley

The defense, however, elicited an admission from Scott Bassett, communications officer for Kings Bay base, that he had told *The Washington Post* that the protesters didn’t threaten any personnel or asset, or damage any military asset, including submarines or weapons systems, at the base.

Reactions to the Verdict

Peace activist and retired Col. Ann Wright summed up the irony of the prosecution of the Kings Bay Plowshares 7, writing on Facebook, “The US nuclear weapons are so poorly protected that the 7 were able to get into the more secure area! Instead of being on trial, they should be rewarded for pointing out how poorly guarded the weapons are!!!”

“I don’t see [what I did] that’s the crime,” defendant Liz McAlister said on *Democracy Now!* “I think the crime is the weapons. The crime is the money spent on the weapons. The crime is the money taken from the real needs in our country and in our world to spend it on these weapons of mass destruction. And we need to stop that. And that’s the message that I want to continue to stand behind.”

Meanwhile, defense attorney Quigley told *Truthout* that he thinks the verdict will “make convictions easier and defenses harder” in the future.

“If the jury would have heard the facts about the nuclear bombs headquartered at Kings Bay—with 3,800 times the destructive power of Hiroshima, and the real possibility of ending all life on the planet—they would probably have come to a different decision about the legality of what these courageous people did,” he said.

—*Marjorie Cohn is professor emerita at Thomas Jefferson School of Law, former president of the National Lawyers Guild, deputy secretary general of the International Association of Democratic Lawyers, and a member of the advisory board of Veterans for Peace. Her most recent book is Drones and Targeted Killing: Legal, Moral, and Geopolitical Issues.*

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Sentence First, Evidence Afterwards

By John LaForge

The four-day trial of the seven King Bay Plowshares defendants began Oct. 21 with a day-long process of jury selection. About 78 potential jurors filled the observers’ seats in the Brunswick, Georgia courtroom of Federal District Judge Lisa Godbey Wood. Family members and other supporters of the defendants had to crowd into an adjacent courtroom and watch a TV projection of the proceedings.

Judge Lisa Godbey Wood slogged through the questioning of the jury pool, ostensibly trying to weed out bias or prejudice against the opposing parties. It was all a finely tuned theater production that lent an air of legitimacy to the thoroughly political show trial.

However, there was no authentic search for a jury of “one’s peers” or any real chance of a fair hearing.

First, the large jury pool of 78 people, although drawn from the area surrounding the Kings Bay Trident submarine base, one of the largest collections of nuclear weapons on Earth, gave the impression of not having a single thought about the weapons.

After Lisa Godbey Wood explained that the “presumption of innocence” is granted to all defendants

in criminal trials, the judge asked, “Does anyone here already believe the defendants are guilty?”

An eye-popping nine prospective jurors raised their hands indicating “yes.” This caused an

audible gasp in the over-flow courtroom.

The potential jurors were asked by Judge Wood if they “had strong opinion one way or another about nuclear weapons.” Not one raised a hand. The judge then asked if any of the 78 felt “any moral or philosophical opposition to US possession of nuclear weapons.” Again, not one hand was raised.

While the seven defendants have spent whole lifetimes voluntarily studying, educating and criticizing nuclear weapons, 12 from this pool would be their “peers.”

Second, regarding the chance of a fair hearing, Judge Godbey Wood ruled that out late Friday, October 18th, 60 hours before trial. That night the judge issued her order granting the government prosecutor’s motion *in limine*.

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The Progressive Foundation is Nukewatch’s 501(c)(3) nonprofit parent organization.

For newcomers to nuclear weapons protest trials, motion *in limine* is a request by the prosecutor to keep certain evidence, testimony, and information away from the jury.

In particular, a motion *in limine* regularly forbids the defendants from presenting evidence about the effects of nuclear weapons, the binding treaties that forbid massacres, the treaties that outlaw poison weapons or weapons that do long-term damage to the environment, the laws banning weapons whose effects cross neutral borders, and military and treaty laws that criminalize indiscriminate killing of civilians.

In other words the motion, if granted, eliminates the protesters’ chance to argue that nonviolent actions against nuclear war preparations are acts of “crime prevention,” the “defense of others,” or even “self-defense” under international law.

Judge Lisa Godbey Wood granted the motion and even included this her summation: “whether nuclear weapons are actually illegal under international or domestic law (a doubtful proposition) is not relevant or an appropriate issue to litigate in this case.”

In a similar case in Wisconsin, the Seventh US Circuit Court of Appeals wrote in 2002, “Even if it were contrary to international law for a nation to possess nuclear weapons, domestic law could properly and does make it a crime ‘to correct a violation of international law by destroying government property.’”

So airtight was the court’s stranglehold on the explanation of the case—and on precisely which words could be used to describe it in court—that the jury reached its complicated verdicts in less than 90 minutes. The 10 women and 2 men were able to eat lunch, vote to choose a foreperson, decipher four complex “verdict forms” for each of the 7 defendants, and then cast votes on 28 separate charges, reaching unanimous verdicts on all 28, all in about 1 hour and 30 minutes.

Since the jury didn’t have to deliberate, you could say the government won a “slam dunk.” Perhaps this could be adopted as an alternative definition for the Latin motion *in limine*. It means: “Mute the defense case; hold the sentencing first.”

Sentencing for the seven has not yet been scheduled. Six of the seven will be out on bond pending sentencing. Fr. Steve Kelly remains in custody as a result of a hold from a separate protest conviction and for refusing to accept the conditions of monitored release.

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