NATIONAL CATHOLIC REPORTER
Published on *National Catholic Reporter* (http://ncronline.org)

# Trial of anti-nuclear activists ends with unusual sentence

Megan Fincher | Dec. 30, 2013
Kansas City, Mo.

Defense attorney Henry Stoever meekly approached the bench of Presiding Judge Ardie Bland on Friday, Dec. 13, complaining that security had refused to let him bring certain pieces of evidence into the courthouse: a full-sized wooden door with a banner proclaiming, "Open the door to a nuclear weapons free world!", as well as an array of picket signs.

Stoever was representing eight nuclear protesters on this unlucky trial date, and Bland, who had sentenced other nuclear activists to jail just two years prior, was the inauspicious icing on the cake.

Bland's eyebrows rose at Stoever's odd request and the packed courthouse tensed for the inevitable ridicule.

"Well, I permit it!" Bland said.

With that statement, Bland set the tone for the next three hours, as protest songs, jokes about national security and even the elderly reveries of Oblate Fr. Carl Kabat, 80, and Franciscan Fr. Jerome Zawada, 76, were permitted in the Kansas City municipal courtroom.

The eight activists were pleading not guilty to charges of trespassing onto the relocated National Nuclear Security Administration's Kansas City Plant July 13. Since 1949, the plant has produced or acquired "about 85 percent of the components that go into a typical nuclear weapon," according to the Government Accountability Office. It took a year to move the nearly 3 million-square-foot facility 8 miles, and the relocation alone cost $80 million, according to a plant press release.

On July 13, around 80 people gathered outside the plant's new location, including priests, sisters, Catholic Workers and local activists. They came to protest nuclear weapons stockpiling, as well as the environmental destruction and exorbitant cost of the plant's relocation. Twenty-four people were arrested after they walked through a full-sized wooden door (the same door that Stoever ultimately hefted into the courtroom) and onto plant property.

William Birkner, the plant's lieutenant of protective forces, was prosecutor Kendrea White's only witness. When White asked him to explain why he called in the arrest, Birkner pointed to the door that was leaning against the wall near the witness stand.

"They actually went through this door and crossed onto the property after they held a prayer session," Birkner testified.

During Birkner's cross-examination, Stoever received permission from Bland to play a 10-minute video of the July 13 protest.

Stoever's laptop was connected to a large, flat-screen television, and as the video began, the courtroom was assailed with Louis Armstrong loudly singing: "I'm gonna lay down my sword and shield/Down by the riverside/Ain't gonna study war no more."

People in the gallery glanced at one another in surprise, and when Bland did not tell Stoever to turn off the video, the courtroom filled with whispers, and then outright laughter.

In the video, protesters held signs and banners outside of the Kansas City Plant amid dozens of security officers. Armstrong faded out, his voice replaced by the activists' singing and drumming, including a raucous song led by the gruff voice of Kabat.

This time, Bland laughed.

Jane Stoever, organizer of the protest and wife of Henry Stoever, was the first to take the witness stand for the defense. Her husband's first question was about the door.

Bland smiled as Jane meticulously explained how the door was made. "We got the door from the Habitat for Humanity thrift store, and the Catholic Workers helped make a stand for the door, and the banner was made from my mother's old clothes ..."

"Your honor, I'm not sure of the relevance of the door," objected White, cutting off Jane's ruminations.

Jane appeared unfazed, and she apologized to Bland for leaving the door's original banner at home.

Stoever continued to ask his wife a multitude of questions, and Jane responded by musing over the history of nuclear weapons and her decades of activism against them. At one point, as Jane explained the Non-Proliferation Treaty, Stoever pulled a copy of the U.S. Constitution out of his pocket. He couldn't find what Jane was referring to, so Catholic Worker Brian Terrell, husband of one of the defendants, called out from the gallery, "Henry! It's Article VI!"

When it was White's turn, she appeared visibly annoyed and immediately asked Jane why she thought getting arrested was more effective than running for City Council.

This question made the gallery, most of them activists themselves, laugh heartily.

Kabat, who has spent more than 18 years in prison for civil resistance to nuclear weapons, took the stand.

He began talking about his years as a missionary in the Philippines and Brazil, and Bland eventually cut him off with the request, "Can you please try and get to this decade?"

Kabat responded, "Well, I celebrated July 4th out there," in reference to his solitary action at the plant in 2012, in which he cut the perimeter fence in order to let in "all of the Holy One's deer and other animals that once used the former bean field for its habitat."

Stoever tried to bring up the 1980 Plowshares action in which Kabat also caused "minor damage" to nuclear nose cones, but Kabat interrupted him to say, "I'm sorry, but it wasn't minor damage."

The courtroom erupted with laughter, yet Kabat seemed confounded. He later told *NCR* that he had arranged to represent himself, so he couldn't understand why Stoever wouldn't just let him talk.

White fixated on one question for Kabat.

"Don't you teach your parishioners to obey the rules?"

"God's rules," Kabat responded.

"Aren't those rules the same as the law?"

"Well, I went to school in Mississippi [pre-civil rights] ..."

The prosecutor, a black woman, interrupted: "OK, let me rephrase the question. Should you obey rules?"

"If they are wrong, we should disobey them!" Kabat yelled out, and many people in the gallery audibly agreed.

"We each have our own conscience to follow," he continued. "If there was a gas chamber across the street, I would say that we should all go right now and destroy it!"

"So you would tell everyone to trespass on private property?"

"You betcha, if it's a gas chamber!"

"But is it OK to disobey the law?"

"It was absolutely right for Rosa Parks not to get up and move to the back of the bus."

In exasperation, White asked, "Are you the one deciding the rules?"

"Well, yes," responded Kabat. "I have my own conscience and I'm 80 years old."

White seemed to visibly give up at this point -- slumping over her notes and facing a wall for the remainder of the trial. She also refused to cross-examine any of the remaining four defendants, including Zawada.

"You're not a Johnny-come-lately," Stoever said to Zawada. "In 1988, you came before federal Judge Joseph Stevens three times for resisting the Minuteman II missiles in Missouri."

"Not correct," Zawada replied. "Five times."

When Zawada later said, "We must transform our preoccupation with nuclear weapons. ... We need to become people of conscience," Bland asked him, "You mean by causing destruction to missile silos?"

"I would want to propose alternatives to them," Zawada explained.

"I just wanted to know if I was going to see you again in a few weeks," Bland said mischievously.

"If you're inviting me, I'll come," Zawada answered, to more laughter.

After listening to Stoever's impassioned closing argument, Bland invited the eight defendants to approach the bench. Offhandedly, he pronounced them guilty of trespassing.

"I volunteered to take this case because I've done this before with Mr. Stoever and I find it interesting," Bland said, in reference to the activists he sentenced to jail two years ago. "If you're not getting to anyone else, you're getting to me. I think you're educating, because every time I learn something."

The gallery murmured their approval, and the defendants nodded.

"I want to do something a little different," Bland continued. "I want to say, I totally understand the argument made about Rosa Parks. I've done a significant amount of research on the civil rights movement, and they all suffered the consequences. ... However, I think the more significant thing is that the world was changed by their actions. I can sit here before you, as a black man, doing justice."

Then Bland announced the sentence, shocking the courtroom.

"I want each one of you to write a one-page, single-spaced essay on each of the following six topics," Bland said. "Your responses will be attached to the court record, which is a public record. They will exist as long as Kansas City exists. My way will give you a chance to say what you want to say." (See sidebar below.)

The defendants were not given a printed copy of the essay questions. It appeared that Bland had come up with the questions during the trial.

The courtroom erupted in applause and cheers, and the court clerk said in laughter, "I know you're all excited, but the judge is still on the bench!"

After the trial, people lined up to shake hands with Bland.

*NCR* asked Kabat, who has been sentenced countless times, what he thought about the unusual punishment.

"I will not promise anything, sign anything, pay anything," Kabat said.

Then he paused, musing, "I will probably write something."

**A sentence of six essay questions**

The following are six questions posed on the spot by Presiding Judge Ardie Bland in the Dec. 13 trial against eight nuclear protesters charged with trespassing onto the Kansas City Plant. Bland found the defendants guilty of the crime, but instead of jail or community service, he sentenced the group to writing a one-page, single-spaced answer to each of the questions.

1. If North Korea, China or one of the Middle Eastern countries dropped a nuclear bomb on a U.S. city tomorrow, would that change your opinion about nuclear weapons?

2. If Germany or Japan had used nuclear weapons first in World War II, do you think that would have changed your opinion?

3. What would you say to those who say, "If we [the U.S.] do not have the big stick, that is, if we get rid of our nuclear weapons, and other countries develop nuclear weapons, then we do not have the opportunity to fight back"?

4. You defendants say you are Christians and one is a Buddhist. Fr. [Carl] Kabat says that you should disobey

ungodly laws. How do you respond to someone who believes there is no God? Who is to say what God believes, for example, when Christians used God to justify slavery and the Crusades?

5. How do you respond to those who have a God different from you when they argue that their religion is to crush others into dust?

6. Who determines what "God's law" is, given the history of the USA and the world?

-- *Compiled from notes taken in the courtroom by* NCR *and defense attorney Henry Stoever*

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