

"Every Hour Is a Victory": The Trial of the St. Patrick's Four

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On March 17, 2003, two days before the invasion of Iraq was launched, four members of the Magnificat Catholic Worker community of Ithaca New York walked into the waiting room of the local Army-Marine recruiting center and carefully poured their own blood on the walls, the windows, the posters, cardboard mannequins of soldiers, the door and the American flag. They brought pictures of Iraqi mothers and children into the recruiting center along with a letter from American peace activists in Baghdad Iraq who called on peace activists in the US to nonviolently resist the promise of shock and awe. They read a statement, then knelt in prayer and awaited the authorities.

The four, Daniel Burns, Peter DeMott, Clare Grady and Teresa Grady were each arrested and charged by the local District Attorney with felony criminal damage to property. They became known as the "St. Patrick's Four." Because they knew that the invasion of Iraq was being condemned by international law authorities around the world, they felt their actions were authorized under the Nuremberg Principles which make it legal to break local law in order to resist war crimes. Because of their faith they felt that pouring of their own blood, though messy and shocking, was a small disturbance compared to the death and bloodshed that was to follow. Because they were each parents, they chose the recruiting center because they wanted to try to stop the death and damage to American sons and daughters as well as to Iraqi daughters and sons.

They refused an offer of the District Attorney's Office to plead guilty to a misdemeanor because they were not guilty. A jury trial was scheduled.

For their trial, they decided to represent themselves. With lawyers as their advisory counsel and strong family and community support, they began to prepare for trial. The state charged them with unauthorized damage to property over \$250. The law allowed a defense that the damage was either authorized by law or the person doing the damage reasonably thought they were authorized to damage the property. (The prosecutor said this was used when you thought the tree you cut down was yours because it was on your property, but it was actually on your neighbor's property). They decided to use the trial to show that their nonviolent action was justifiable under both international law and the defense of necessity, sometimes called justification. The essence of the necessity defense is that your act was something which would otherwise be breaking the law but is not breaking the law when it is done to prevent a greater harm -- like breaking into a stranger's home in an emergency like a fire if you are trying to rescue a child.

They met dozens of times to plan out a coordinated way to educate the jury about what they were doing and to use the trial as an opportunity to organize around peace in the community. The pressure of a possible felony conviction and up to four years in prison was felt and there were plenty of disagreements about how to proceed. But there was generous family and community support. Together they planned a trial strategy: jury selection, opening and closing statements, who would examine which prosecution witnesses, what questions would be asked, what documents would they try to get before the jury -- all the while trying to keep the concerns of the people of Iraq as the centerpiece of the trial.

They filed a motion to allow Ramsey Clark to testify about international law, Howard Zinn to testify about civil disobedience, and Catholic Bishop Thomas Gumbleton to talk about the scriptural and spiritual basis for peacemaking. They also advised the court that they wanted to put on evidence about the war and the necessity for their actions. But the District Attorney's Office opposed these efforts.

Two weeks before trial the court denied most of the planned defense. In a devastating decision, the judge agreed with the DA that expert witnesses and other evidence on international law and necessity would not be allowed. The court did promise to allow the four to testify to their own convictions on these issues and about why they felt their actions were justified.

As the morning of trial dawned, reporters on the local paper created a pool on how long it would take the jury to convict -- the longest bet was a couple of hours.

All filed into a big high-ceilinged congregation-style courtroom, with white walls, wooden pews, and the words "In God We Trust" painted in gold over the raised stand from where the judge presided. After a quick 8:45 am pretrial conference with the judge, the four and counsel stayed behind, held hands and prayed.

The court brought over a 100 jurors into the courtroom and examined them in panels of 18. Twelve jurors and two alternates had to be selected. Their verdict had to be unanimous. The court asked a number of basic questions and then allowed each side to ask 30 minutes of questions to each panel.

The St. Patrick's Four conducted their own jury selection from a table where supporters had placed three daffodils in a small glass vase. They started out by telling the jury exactly what they had done. To the surprise of the reporters, the four admitted right away that they went into the recruiting center, prayed and poured their own blood all over in order to try to stop the war and protect US soldiers and the people of Iraq.

They then asked people whether they thought the invasion of Iraq was moral or not. Was it legal? Could the president make a mistake? Were the casualties worth it? Did Iraq have anything to do with 9-11? Could the jurors keep an open mind about whether the four should be convicted until after all the evidence was in, or had people already decided? Some jurors were puzzled -- saying "didn't you just admit you were guilty?" "No, we admitted that we took the action, but we are not guilty because it was authorized under international law and necessity."

The prosecutor objected but the judge said they could tell the jury what they were going to testify to. The prosecutor asked jurors to promise to follow the law. The St. Patrick's Four asked the jurors to be the conscience of the community and to promise to create justice.

Passions in the potential jurors ran high as jury selection turned into a huge focus group debating the war in Iraq, civil disobedience, Vietnam, slavery and the duties in hindsight of the citizens in Nazi Germany. Many said they could not keep an open mind and the judge excused them from serving. Some jurors said the war was a horrible mistake and they could never convict anyone of doing anything to oppose it.

Other jurors were visibly angry saying that even though they thought the invasion may have been a mistake, this was no time to criticize the war while troops were on the ground -- prompting other potential jurors to break out in applause. Stereotypes were shattered as VFW members scoffed at the judgment of the president and business lobbyists said they were passionately against the war. After interviewing nearly 80 citizens until almost 6 o'clock, twelve jurors and two alternatives were selected. It was an exhausting and trying day, but one in which some of the questions about the war were raised -- hopefully it did some justice for the people of Iraq. After the long day, another meeting -- many hopes and some tears -- ending with holding hands and prayers for the people of Iraq.

Meanwhile supporters were preparing open lunches in a nearby unitarian church and dinners and music for dozens each evening -- great opportunities for sharing information about the trial and building community. Meetings were often held on folding tables with crawling babies while eating everything from Moosewood spinach quiche and goat curry to peanut butter sandwiches.

As the jury was brought in, there were soft prayers at the table. Opening statements were made by the prosecutor and each of the four. The prosecutor said this was a simple case of damage, easily proven, easily decided. Each of the defendants again admitted that they poured blood in the recruiting center, then explained why. Peter DeMott admitted he poured blood and spoke of his time in the Army and Marines in Vietnam, the horrors of war, about his family, and about the Nuremberg Principles. The prosecutor objected, but the judge said that even though only the judge could tell the jury about the law the defendants could tell the jury what they intended to testify about.

Teresa Grady told about growing up in a household of resistance where her father had destroyed draft cards in Camden and his jury acquitted him, her trip to Nicaragua and the successes of numerous campaigns of civil resistance from anti-apartheid, to Vieques, to civil rights, to the right of women to vote. Danny Burns told the jury that the American flag already had blood on it, the blood of native Americans and slaves and immigrants and civilians in Hiroshima and Vietnamese burning children. And he told about his family and humbly asked the jury to listen to the defendants tell their story about international law and justification. Clare Grady told them about her trip to Iraq in the 1990s and her bonds with the women and children she met there -- people whose pictures she brought into the recruiting center -- people who she hoped to put before the jury as they weighed the legality of the pouring of blood.

The prosecutor then started her case. As she did, the defendants stood and offered to stipulate

to the facts of the case -- but the prosecutor insisted on calling witnesses and the judge allowed her to do so.

She put on a fairly quick case. Two soldiers from the recruiting center who told about the blood being poured all over, including the flag. Big pictures of bloody walls and windows and the bloody American flag were shown to the jury. The defendants only asked the soldiers whether potential recruits were advised about depleted uranium or the spiritual or psychological consequences of warfare or that nearly half of those who served in the first gulf war have applied for disability. The soldiers said that they did not know about these things and did not advise anyone about them. The arresting officer told of the arrest -- and the only response of the defendants was to thank him for the respectful treatment he gave. A cleaner testified that he had been asked to clean up the blood. He hired two people [to] clean for 7 hours each and payed them \$7 to \$10 an hour, but charged \$45 an hour for their time and a couple of hundred extra for his time and for supplies, thus calling into question whether the damage was over \$250 or not -- a key element for the felony charge. The prosecution's final witness donated a new American flag and the blood spattered flag was lifted up to show the jury. The prosecution rested.

At the close of each day of trial, the defendants met to coordinate their strategies and to make mid-trial corrections. Many in the community had a stomach flu and as all were so often together shared it as generously as everything else. Sleep was hard to come by. People in the courtroom had different perspectives on what had happened and what should happen. There were hopes and laughter and tears but always reconciliation, ending with hands held and singing. And as court started each morning, hands were held in court hallways and there were soft songs and prayers.

All the while the trial was going on, the courtroom was full of children and teenagers and cousins and supporters from near and far. Many arriving early and staying late, others popping in between family and work obligations. Patiently sitting and standing in solidarity with the truth that is being witnessed.

The jury never knew that the defendants had tried to get additional testimony about Iraq and international law and civil disobedience into evidence. Now, the judge dismissed the jury and again outside of their presence went over all the other witnesses and exhibits proposed to be included in the defendants case to which the prosecutor had lodged objections.

Cathy Breen of New York Catholic Worker and Voices in the Wilderness to testify about what it was like in Baghdad before and during the bombardment? Not allowed. Fr. Ned Murphy, SJ, about the defendants' reputation and the role of blood in scriptures? Denied. Damacio Lopez to speak about the effects of depleted uranium in Iraq and in New Mexico? Denied. Pre-invasion reports by Scott Ritter testifying that Iraq did not have weapons of mass destruction? Denied. Pictures of people in Iraq? Denied. Newspaper articles from around the world about the illegality of an invasion of Iraq under international law? Denied. A copy of the Nuremberg Principles? Denied. The only evidence the judge was letting in was the testimony of the defendants themselves about what they did, why they did it, and how they thought they were justified in doing so. The jury got to see none of this evidence, nor knew that it was excluded.

In the end, it was up the four, and them alone, to tell the jury and the larger community why they poured their blood and why they thought it was moral and legal.

Peter DeMott testified as a father, a husband, the oldest of nine children and as a Marine and Army Veteran, who served in the war against Vietnam. He stated it was his duty as a Christian and under International Law and the Nuremberg Principles to take non-violent action to stop an illegal and immoral war undertaken by his country. He spoke of his sincere concern for his family and for the Iraqi people suffering under the U.S. sanction, invasion and occupation. He also spoke of great concern about the U.S. service people who are suffering in Iraq and elsewhere from the ravages of war, and especially about the toxic effects of depleted uranium (DU) on the troops in Iraq and the Iraqi people. Peter also spoke of the contamination of the air, soil and water for millions of years as a result of the U.S. dropping tons of DU in Iraq in the current war and the first Gulf War. He respected the soldiers but he feared for them. At the end, when asked about the command to "Love Your Enemies", he responded by saying he had no enemies. The prosecutor asked him about prior convictions and he testified he had been arrested over 25 times protesting at the White House, the Pentagon, the Department of Energy, the Air and Space Museum and numerous army and navy installations and had spent time in prison for his nonviolent protests.

Teresa Grady testified about being raised to embrace all of God's children and to greatly appreciate the diversity of people while growing up in New York City. She said her religious convictions were a strong motivation for her to take her action. She spoke of her father's acquittal in the Camden 28 trial, in which he and 27 others were involved in destroying the draft files of men about to be drafted for the Vietnam War. Teresa spoke as the parent of a teenage boy and how important it is to educate young people about the real impact of signing up for the military, the reality that the recruiters gloss over. She pointed to the numbers of people killed in Iraq during the time of the trial alone, and how that pointed to the desperate need for the prevention of this war. She testified about numerous instances where nonviolent resistance to unjust laws ultimately helped make justice possible.

Daniel Burns testified that as a parent of a small child, he felt that the loss of a single child would be too great for anyone to bear, and that he was thinking very much of that when he took his action. As the tenth of twelve children, he thought of the parents of soldiers and Iraqi citizens and how horrible it was for any of them to lose their children to war. The prosecutor said to Danny, "Why didn't you just bring your own flag to the recruitment station and pour your blood on it outside? That would have been fine." He stated that Rosa Parks didn't just stand outside the bus and hold a sign. She went inside the bus and took more serious action and the world was better for her action. Danny said he felt there was an emergency about to occur in Iraq and that our country is essentially "on fire", with the emergency continuing in Iraq and the tragedy continuing here as well in the form of U.S. military people still coming home dead, wounded and scarred. He felt his action was taken as an emergency measure, in conjunction with many others around the world who were also saying "NO" to this war. He talked about seeing articles in the paper challenging the proposed invasion as a violation of international law and statements by hundreds of law professors who said war was illegal.

Clare Grady told of her eyewitness knowledge of the suffering in Iraq at the hands of the U.S. sanctions when she visited there with a Voices in the Wilderness Delegation in 1999.

She told how she visited with Iraqi mothers and despite their language barriers they together shared the joy of their children, kissing each other's photographs of their children. Clare spoke of her strong religious belief that there is never justification for killing. Clare said that she was raised to oppose injustice, to oppose racism, war making and the injustices of poverty. She remembered how her father cried when Martin Luther King was killed and how the family helped him run as a peace candidate for congress. She spoke of her work as kitchen coordinator for 15 years in the community kitchen in Ithaca, serving free meals 5 times per week. She then recounted how she went to the recruiting center and carefully poured the blood and knelt and prayed and waited for the authorities.

In the fourth day of the trial, after Clare finished, all the defendants rose and said together "the defense rests." The jury was dismissed for the Easter weekend.

The judge discussed proposed jury instructions -- ultimately rejecting most of the ones suggested by the defendants on international law, necessity, and Nuremberg principles -- instead keeping most of the standard jury instructions for a criminal damage case.

Over the Easter weekend, while the defendants worked on their closing statements to the jury there was a shock -- Peter had been hospitalized with a brain hemorrhage. While he was in intensive care, the community and the families rallied to support his family and the rest of the defendants. The doctors would not allow him to leave the hospital. Would the trial continue or would there be a mistrial? Peter wanted the trial to continue for the sake of all involved, especially the jurors who had already given up four days. Defendants and dozens in the community decided to go forward with a huge Easter gathering with a pitch-in dinner and music and festivities.

On Monday the judge agreed to allow the trial to go forward as Peter had requested and allowed Peter's advisory counsel to read a brief closing statement from him to the jury. Teresa closed with "We are Catholic Workers and We Are Still Pacifists." Clare thanked the jury for their time and reminded them that while everyone in the trial had the weekend to catch up and take a breath, the people of Iraq were dying by the dozens as were many US soldiers. Clare finished with a quote from GK Chesterton about the importance and wisdom of juries. Danny gave a brief summation of the case and asked the jury to look at their action not in the narrow legalistic context that the prosecutor wanted, but in the context of the war in Iraq, in the context of history of nonviolent civil resistance, and in the context of justice. Danny said Iraq is the building and the building is on fire, though they were not able to stop the fire of war, they should not be penalized for trying. He reminded the jurors of their promise to give justice and asked them to send the world a message of justice and peace by deciding justly. The prosecutor said it was a simple case with a simple outcome -- conviction of people who, though idealistic, were wrong and engaged in illegal acts that if approved would lead to anarchy. She also said that even if Iraq was a burning building, it was millions of miles away and there was nothing that anyone could reasonably do about it -- thus the defendants should be convicted.

The judge then gave the jury his instructions and their deliberations started at 11:30 on Monday morning. One of the court personnel was overheard saying "These people are making a mockery of this whole process!"

While at lunch, one person from upstate New York told how she and others had gone over a fence around a national guard installation to protest the first gulf war, had gone to trial and poured their hearts out for a day and a half -- and their jury was out seven minutes before convicting them!

As the afternoon inched forward, supporters were heard saying "every hour is a victory." (The newspaper reporters' pool for how long the jury would be out topped out at a couple of hours).

At 5:45 all were summoned back into court. As the jury filed in, the judge said they wanted the cross-examination testimony of the defendants read back to them. A bad sign. All the prosecutor wanted to focus on was their version of the action -- having each defendant admit again that they had poured blood and waited. Hopes sagged. The testimony was re-read to them. After that the judge ordered them dinner and sent them back to deliberate.

At 8 at night all were summoned back into the courtroom. People were very worried, but it turned out that the light in the jury room had gone out and the judge was going to dismiss them for the night.

The next day the jury was out all morning and the judge orders them lunch. The print reporter admitted that no one in their pool even bet that the jury would be out overnight. The TV reporter said her managers wanted to know what was going on? Hadn't the defendants admitted that they did it? What was taking so long?

Courtroom officers admitted they were surprised by how long the jury was taking. Another courtroom official said "this is ridiculous!"

At 2:30 the judge asked everyone to come back to the courtroom. The jury said they were unable to reach a unanimous verdict and did not foresee any changes and asked to be let go. Defendants agreed with the jury request. But the prosecutor asked that they be given further instructions by the court to conscientiously re-evaluate the evidence and the court did so. Once the jury was told this and sent back to deliberate, the judge said he would re-evaluate at 5 o'clock.

The next few hours went by extremely slowly. At 5 the jury had another question and the judge answered it and sent them back to deliberate and ordered dinner.

At 8:50, after 20 hours of deliberation, the jury again said it was deadlocked and the judge agreed to dismiss them and declare a mistrial. As the jury advised the judge that they were unable to reach a verdict, the packed courtroom gave them a tremendous ovation and repeated it as they filed out.

The DA was stunned, the media were stunned, the community was elated. But the greatest news of all? Within 24 hours, it was reported that the jury was deadlocked 9 to 3 in favor of acquittal of the defendants.

A mistrial means that the prosecutor can seek to re-try the defendants. The prosecution said they would try the protestors again. The judge agreed to consider a defense motion to dismiss

the prosecution in the next 30 days.

It started as a trial of brave and conscientious protestors. But it was clear that somewhere along the way the trial changed. As it ended up, the war in Iraq itself had gone on trial. Every hour is a victory and another opportunity to lift up the concerns of the people in Iraq and work overtime in the coming weeks to try to stop the violence.

This story will end with the closing argument of Danny Burns. Then you decide how together we can try to stop the continued killing. The jury did their part. What is ours?

Closing Argument of Daniel Burns to the Jury

First I want to thank you for giving up a week of your time to hear this case. We are not lawyers and we appreciate your patience with us and we appreciate your attention. We also thank the judge and the courtroom people, thank you. I also thank the prosecutor. We think she is, as she joked, a talented prosecutor arguing a weak case.

I would now like to remind you of the promise you made to us in jury selection. You promised to do justice in this case. For hundreds of years, our system has relied on the wisdom and courage of jurors to do justice. I know you will keep your promise to do justice now that the case is finally in your hands.

The prosecutor wants you to look at this case very narrowly and will tell you that you have no choice to convict us. But that is clearly not the case. The judge will tell you to use your common sense and to search for the just meaning of the words "reasonable." The jury's role is to apply the law to the facts and to produce justice. We know you will not look at this so narrowly and we know you will never forget justice.

The prosecutor has charged with the crime of criminal mischief. The judge will tell you that this law requires 3 elements: We intended to damage the property of another; We had no right, nor any reasonable ground to believe we had a right to do so; The damage exceeded \$250.

Again, the prosecutor wants you to look at this very narrowly and technically. We want you to use your common sense and look at these elements in the context of the real world.

What is the context for our action?

The IMMEDIATE CONTEXT for the justice of our action is the Pre-emptive Invasion of the War of Iraq. An invasion opposed by the United Nations, opposed by most nations in this world, and founded on lies about weapons of mass destruction, and an invasion that has cost a billion dollars a day, hundreds of American sons and daughters, and thousands of our Iraqi sisters and brothers.

Also we ask you to look at the justice of our action in light of the CONTEXT OF INTERNATIONAL LAW. Why was the invasion opposed by the UN and many of our allies? Because International law only allows an attack on another country in self defense or with approval of the UN security council -- and we had neither. And The Nuremberg Principles provide a legal defense for people seeking to prevent war crimes.

We also ask you to look at the justice of our action in a RELIGIOUS CONTEXT. Think of thou shall not kill. Love your enemies. And Jesus in the temple -- where he disturbed the peace and broke the law to protest the injustices of the temple.

THE HISTORICAL CONTEXT is also important to judge the justice of our action. Remember the Boston Tea party, Rosa Parks, Martin Luther King, Gandhi, Susan B. Anthony, and Sojourner Truth.

The prosecution will tell you to forget all that but we say justice demands that you use common sense and context.

So, in these contexts, how do we think justice applies to the elements of this charge?

The first element, damage to property. We ask you to balance the mess we made with the horrors we were trying to prevent. We think if you do that you will find justice.

The second element is "the right to do so, or reasonable ground to believe we had such a right" -- we have tried to explain our religious, historical, moral, and international law reasons. We believe what most other people in the world believe -- that no country has the right to invade and bomb another country except in self-defense. We think history will judge that this was an illegal and immoral war. That is what we tried to stop. Even though we are not lawyers, I hope we were able to explain our reasons to you so that you might apply justice.

The third element is damage of over \$250. We hurt no person. We admitted from the beginning that we poured our blood, prayed and stayed to take responsibility for our actions -- because what we did was right. The prosecution has not given you proof beyond a reasonable doubt that you can put ANY cost on the mess we created. The cleaner admitted on the stand that he gave one bill under oath to the grand jury and a completely different one under oath here in this court -- that alone is enough to create reasonable doubt about the proof of damages. The cleaner also testified that he did NO CLEANING himself. 2 people did most of a day's work and he paid them \$7 to \$10 dollars an hour. 14 hours at \$10 an hour is far, far less than \$250. And we all know the cost of ammonia. He wanted to be paid \$45 an hour and who blames him, but use your common sense, and consider what the real cost is. The prosecution has not proved this element beyond a reasonable doubt.

No jury would convict 4 people of breaking and entering if they broke into a burning house to try to save a child. Here, the building was on fire -- as Iraq is now, and we broke in to try to save our troops and the innocent Iraqis. We did not save them, but justice says we should not be punished for trying.

So, we end where we started. We ask for justice.

We ask for justice for the people of Iraq and our troops, We ask for justice for world peace. We ask for justice to say no to pre-emptive illegal war.

Send a message to the world from Tomkins county -- we say yes to conscience, we say yes to love of neighbor, we say yes to international law, say yes to justice.

Thank you and god bless.

More information about the Catholic Worker movement may be found online at www.catholicworker.org.

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