

# Dorothy Day Archivist Found Guilty of Trespassing in Wisconsin

**Phil Runkel, Dorothy Day Archivist and Activist, Found Guilty of Trespassing in Wisconsin**

By Joy First

On Friday February 19 Phil Runkel was found guilty of trespassing in Juneau County, WI by Judge Paul Curran after a 22 minute trial. Phil had joined nine other activists in attempting to walk onto the Volk Field Air National Guard base and meet with the commander to share our concerns about the training of drone pilots that takes place there.



District Attorney Mike Solovey followed his standard procedure of calling Sheriff Brent Oleson and Deputy Thomas Mueller to the stand and identifying Phil as one of the people who walked onto the base on August 25, 2015 and refused to leave.

Phil cross-examined Sheriff Oleson asking him about the purpose of the space between the gates and guard house. Oleson responded that the space was used so that cars waiting to enter the base didn't back up onto the county highway. Phil asked when it was legal to be in that area, and Oleson responded that it was when you are given permission. But that isn't true. Cars drive through the gates and about a block to the guard house and wait to talk to the guard without getting permission to wait in that space.

Phil asked Oleson if we were asked why we were there so the base officials could determine if we were there for a valid

reason, and the sheriff responded that he knew we weren't there for a valid reason.

The state rested their case and Phil told the judge he would like to be sworn in to testify and then give a brief closing statement.

## **Testimony**

Your Honor:

I am employed by Marquette University, where it has been my privilege to have served since 1977 as archivist for the papers of sainthood candidate Dorothy Day. She has often been lauded for her performance of the works of mercy—most recently by Pope Francis—but scorned for her equally steadfast opposition to the works of war. This led to her arrest and imprisonment on three separate occasions for failure to take cover during civil defense drills in the 1950s. I am one of many who have been inspired by her example to seek peace and pursue it.

I respectfully plead not guilty to this charge. Following World War II the International Military Tribunal at Nuremberg declared that *“Individuals have international duties which transcend the national obligations of obedience imposed by the individual State.”* (Trial of the Major War Criminals before the International Military Tribunal, vol. I, Nürnberg 1947, page 223). This was one of the Nuremberg Principles adopted by the International Law Commission of the United Nations in 1950 to provide guidelines for determining what constitutes a war crime. These principles are arguably part of customary international law and part of domestic law in the United States under Article VI, paragraph 2 of the US Constitution (175 U.S.677, 700) (1900).

Former US attorney general Ramsey Clark testified under oath, at a trial of drone protesters in Dewitt, NY, that in his legal opinion everyone is obligated under the law to try to

stop their government from committing war crimes, crimes against peace and crimes against humanity

([http://www.arlingtonwestsantamonica.org/docs/Testimony\\_of\\_Elliott\\_Adams.pdf](http://www.arlingtonwestsantamonica.org/docs/Testimony_of_Elliott_Adams.pdf)).

I acted out of a conviction that the use of drones for extrajudicial, targeted killing constitutes such a war crime, and I sought to apprise base commander Romuald of this fact. I intended to uphold international law. (As Ms. First noted at her trial last week, Judge Robert Jokl of Dewitt, New York, acquitted five resisters for their action at the Hancock drone base because he was persuaded that they had the same intention.)

Article 6(b) of the Nuremberg Charter defines War Crimes—violations of the laws or customs of war—to include, among other things, murder or ill treatment of civilian population of or in occupied territory. Weaponized drones, assisted by reconnaissance and surveillance drones piloted from bases such as Volk Field, have killed between 2,494-3,994 persons in Pakistan alone since 2004. These include between 423 and 965 civilians and 172-207 children. Another 1,158-1,738 have been injured. This is data compiled by the award-winning Bureau of Investigative Journalism, based in London

(<https://www.thebureauinvestigates.com/category/projects/drones/drones-graphs/>).

According to the legal scholar Matthew Lippman (Nuremberg and American Justice, 5 Notre Dame J.L. Ethics & Pub. Pol’y 951 (1991)). Available at:

<http://scholarship.law.nd.edu/ndjlepp/vol5/iss4/4>) citizens have “the legal privilege under international law to act in a non-violent proportionate fashion to halt the commission of war crimes. “ *He contends that “Nuremberg... serves both as a sword which can be used to prosecute war criminals, and as a shield for those who are compelled to engage in conscientious*

*acts of moral protest against illegal wars and methods of warfare."*

Lippman counters the common admonition for protesters to confine themselves to legally-sanctioned means of dissent, such as lobbying congresspeople. He cites Judge Myron Bright, of the 8th Circuit Court of Appeals. Dissenting in *Kabat*, Judge Bright stated that: "We must recognize that civil disobedience in various forms, used without violent acts against others, is engrained in our society and the moral correctness of political protesters' views has on occasion served to change and better our society."

Examples he gave included the Boston Tea Party, the signing of the Declaration of Independence, and the more recent disobedience of "Jim Crow" laws, such as the lunch-counter sit-ins. *Kabat*, 797 F.2d at 601 *United States v. Kabat*, 797 F.2d 580 (8th Cir. 1986).

To Professor Lippman, *"Today's obscenity may be tomorrow's lyric."*

I'll conclude, then, with these words from a song many of us know: *"Let there be peace on earth. And let it begin with me."*

Note that Phil was stopped in the fifth paragraph, giving statistics on the number of people killed by drones, when DA Solovey objected citing relevance and Curran sustained the objection. Phil was not able to complete his statement, but it is included in this report because he provided valuable information that could be useful in future cases.

Curran asked Phil what his testimony has to do with trespassing and Phil began to talk about why he walked onto the base when the DA interrupted and said there is nothing about intent in the statute. As Phil persisted in trying to explain his actions to the judge, Curran became increasingly agitated and angry. He said he didn't need to be lectured by Phil about Nuremberg.

Phil tried to explain he was acting under the belief that he was obliged to enter the base, and that we are compelled to engage in resistance to illegal warfare. Again, Curran made his same old argument that his court is not going to tell Obama that what he is doing is illegal. That continues to be a false argument that the judge makes in many of our trials.

Phil was very persistent in trying to get his point across and continued to argue his case, but the judge could not hear anything he was saying.

Finally the judge said guilty and \$232 fine. Phil said he wanted to give a closing statement. Curran said it was too late, it was over, and got up and quickly left the courtroom. I am concerned about a judge who refuses to allow a closing statement. Is that legal?

### **This is the closing statement Phil would have liked to present.**

I stand with my co-defendants in the conviction that silence in the face of the injustice of the immoral, illegal and counterproductive drone warfare being carried out by our government makes us complicit in these crimes. And I fully endorse and support their testimonies before this court.

In his book *The New Crusade: America's War on Terrorism*, Rahul Mahajan wrote, *"If terrorism is to be given an unbiased definition, it must involve the killing of noncombatants for political purposes, no matter who does it or what noble goals they proclaim."* I ask your honor to consider which poses the real threat to peace and right order—the actions of groups such as ours, or those of the CIA and other agencies responsible for our drones policy.

Again, a very disappointing outcome, but Phil reminds us of the importance of what we are doing and why we must continue as he states,

*"I was disappointed, of course, that Judge Curran didn't allow me to finish my testimony or make a closing statement. But such rulings won't deter us from continuing to speak our truth to the powers that be."*