

Grandma Drone Protester Appeal Hearing Scheduled

Press Release

Ithaca, N.Y. The long-awaited appeals case of Mary Anne Grady Flores, one of many Grandma drone protesters at Hancock MQ-9 Reaper Drone Base, will be heard by the panel of judges of the N.Y.S. Court of Appeals in Albany, on Oct. 11, 2017. Depending on the verdict, Grady Flores, who has already served 56 days, may have to complete 65 days in Jamesville, Onondaga County Jail, E. Syracuse.

On Feb. 13th, 2013, Ash Wednesday, Ithaca Catholic Worker Grady Flores took pictures of eight Catholic protesters from the roadway, unknowingly crossing what Hancock claims to be its boundary, "the double yellow line in the middle of the road." Where she stood in the roadway violated a domestic violence, stay away "order of protection" (OOP's) given by local DeWitt Court on behalf of Colonel Earl A. Evans of the 174th Attack Wing of the NY National Guard Base. In another drone protester appeal the OOP had been ruled invalid by Onondaga County Judge Brunetti because the OOP didn't delineate how close or far people had to be from the base. Grady Flores' OOP's was from a previous nonviolent witness at the base, Oct. 25, 2012.

Colonel Evans testified during her 2014 trial that he didn't know Grady Flores or ever speak with her. He said he, "That's just a piece of paper. I just want the protesters away from my base." Judge David S. Gideon sentenced Grady Flores to a year in jail, unsuccessfully trying to stop 50 others, many who returned to protest despite having OOP's.

Grady Flores' appeal contends that you cannot take an order of

protection out on behalf of property. Her appeal, written by Ithaca attorney Lance Salisbury, also argues that the order threatens her First Amendment protected right of free speech. NYC attorney Jonathan Wallace of the National Lawyers Guild has submitted an amicus brief in support of her case.

The eight Catholics photographed were protesting Hancock Killer Drones, atoning for the killing and maiming of child drone victims on that February Ash Wednesday. They were acquitted of their only charge, disorderly conduct, explaining their intent was to uphold law and sound the alarm of laws being violated by the base, such as extrajudicial killing, violation of drone victims' right to due process, violation of sovereignty laws. They contended they were there to enforce law, not there to break law.

Hancock is the largest training and maintenance center for the US MQ-9 Reaper drone program. Extra judicial killings are executed by Air Force crews sitting in front of computer screens in the Syracuse base, killing civilians in Afghanistan and Pakistan. In a five-month period in 2015, up to 90% of drone assassination victims were civilians. The base shares facilities with civilian Syracuse International Airport. Hancock Air National Guard Base has been the site of protests of the US killer drone program since 2010, resulting in about 200 arrests and numerous trials, appeals, numerous incarcerations some ending in acquittal.

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Some Background Information:

Hancock Protester Mary Anne Grady Flores' appeal will be heard in NYS Court of Appeals. She was convicted of violating an order of protection by standing in the street in front of the base taking photographs. The Ithaca office of Parole had submitted a pre-sentencing report that suggested Mary Anne should not be given jail time as she was not a threat to the

commander or anyone else and jail time would severely impact her family and her job, but an irate judge Gideon sentenced her to a year in jail.

The OOP was requested by the Commander of Hancock Base at the time to keep known protesters from protesting at the base. Mary Anne was not protesting that day. She was doing press. The people arrested for protesting that day were acquitted of their disorderly conduct charges by Judge Jokl who found there was no intent to cause harm. In any case, should the base commander be able to use an 'order of protection' to secure the perimeter of the base property from unwanted information sharing? Does this really constitute a personal threat to him, and if not, how is the order of protection legal? These are among the issues that need to be addressed by the court.

Amicus Brief for Mary Anne Grady Flores

Jonathan Wallace has written an Amicus Brief for Mary Anne Grady Flores and submitted it to the Appeals Court on behalf of Upstate Drone Action. Mary Anne, one of the first Hancock protesters to receive an Order of Protection, decided not to press her luck and participate in the next civil resistance action outside the base. She did however come to the site of the protest and stand in the street photographing the participants. As she walked back to her car, she was arrested for 'violating' the terms of her OOP.

Since she was in a public road well outside the locked gates of the base while merely photographing the protesters, Mary

Anne was completely surprised by her arrest. In her mind, she had followed what she believed was the intention of the OOP which was to refrain from protesting at Hancock Base and stay off base property. She later learned that the public thoroughfare she was standing in was leased by the base from the town, and subject to an easement allowing traffic to pass by.

At the trial, the Jury sided with a very aggressive prosecution that labeled her as an intruder in the affairs of the community and convicted her of not 'staying away' from the base. Judge David Gideon wanted to 'send a message' to the protesters so he sentenced her to a year in jail. By that time, the actual protesters she was photographing had already been acquitted of their Disorderly Conduct charges on the basis that there was no 'intention' to cause alarm or disruption.

Mary Anne's case has been appealed and the appeal will be heard possibly in the fall. This is the context in which Jonathan wrote the brief. I have transcribed the introduction and summary portion of the brief in this post, but if you wish to read the whole brief you can click on the pdf link at the end of the post. I have also linked a copy of her Order of Protection so you can see what Jonathan references in his document.

INTEREST OF THE AMICUS CURIAE

Upstate Drone Action respectfully submits this brief as amicus curiae in support of Appellant's argument that her conviction for contempt of an Order of Protection ("OOP") violated the First and Fourteenth Amendments. Upstate Drone Action is a grassroots coalition founded in 2010 which, in its own words, "seeks to expose – both to the public and to Hancock Air Force Base personnel – the ongoing satellite-

facilitated Reaper drone war crimes perpetrated in West Asia and the Middle East by the 174th Attack Wing of the New York State National Guard stationed at Syracuse's Hancock Air Force base".

Upstate Drone Action has organized and carried out a series of peaceful protests on the public street adjoining, and in the access road to, Hancock Air Force base. Numerous members of Upstate Drone Action have been arrested during these peaceful protests and charged with obstructing government action, a misdemeanor, and disorderly conduct and trespass violations, and some have gone to trial on these charges. Almost from the very outset, authorities in the Town of Dewitt, where the base is located, have begun issuing OOP's under Criminal Procedure Law Section 530.13, using the same blank form which would be utilized to protect a battered spouse or frightened witness, issuing these in the name of the colonels commanding the base. Appellant Mary Ann Grady was arrested for violating her OOP at an Upstate Drone Action demonstration. Three other members of Upstate Drone Action currently face contempt charges for OOP violations, which have been adjourned by a DeWitt Town Court judge without date pending a decision on this appeal.

STATEMENT OF THE CASE AND SUMMARY OF ARGUMENT

Amicus maintains that the OOP issued to Appellant violates the First and Fourteenth Amendments, and the New York State Constitution, because:

- I. It is so vague as to offend Due Process, in that it fails to contain any geographic limitation whatever or other clarification as to the meaning of its terms, including the phrase "stay away";
- II. Appellant's actions, peacefully photographing a demonstration on a public thoroughfare, were First Amendment protected and cannot Constitutionally be construed as a misdemeanor violation of the OOP;
- III. The OOP fails the "intermediate scrutiny" test

applicable in First Amendment cases involving content neutrality, in that the OOP itself, and Appellant's arrest pursuant to it, were not "narrowly tailored to a significant government interest, while allowing ample alternative means of communication"; and

IV. The OOP constituted an unlawful prior restraint on Appellant's speech.

Click icon to read the entire brief:

