

Co Springs St. Paddy's Day Seven Trial Ends with Hung Jury!

by Frank Cordaro

The long awaited trial of the seven peace marchers who were arrested during the annual St. Patrick's Day Parade in Colorado Springs took place in the city's municipal court on August 23 and 24, 2007. (see June 2007 v.p.) Originally charged with "failure to desist or disperse," the charge was changed to "obstructing a passage or assembly," a misdemeanor carrying a maximum penalty of \$500 and/or 90 days in jail.

Greg Walta, the Colorado American Civil Liberties Union attorney assigned to defend the seven peace marchers, embraced a defense strategy that strictly focused on the charge of "obstructing a passage or assembly" and refused to directly address the larger issues of freedom of speech and excessive force and police brutality that took place during the arrest. Greg's reasoning was simple and tailor-made for the local climate in Colorado Springs.

You would be hard-pressed to find a community in the United States that is more pro-law and order, pro-police, pro-war, pro-militarily, pro-USA and with more members of the Christian Right than Colorado Springs. Ninety-nine out of a hundred times when a Colorado Springs jury is asked to choose between their police and a defendant, (despite the evidence or through their own "lying eyes") they will choose their police.

Narrowing the charge to "obstructing a passage or assembly" forced the jury to decide if the defendants knowingly and intentionally blocked the parade route rather than judge why the defendants were there. Greg rightly understood that if a narrative was painted that pitted the defendants against the police; the jury would side with the police regardless of the charges and the evidence. Greg's intent was to show that the problem emerged through the parade organizers' poor planning and negligence, which placed both the peace marchers and the police in an impossible situation.

The morning of the first day, a six-person jury was selected. Greg masterfully managed the

dismissal of six jurors out of a pool of 30 for "cause" before using any defense strikes. The fact that so many jurors were dismissed for cause was also an indication of how difficult it was going to be to seat a fair and impartial jury. When the selection was done, the jury included four women and two men; two of the women were African Americans.

The afternoon of the first day and the first half of the morning of the second day, the prosecution presented its case. It was here that Greg did his best work as he superbly exposed the holes and inconsistencies in the city's case. Witness after witness, most of them police officers, gave conflicting evidence and testimony. The biggest asset for the defense during this period of the trial was the photographs that documented what actually took place. Though there was no mention of police brutality, anyone looking at the photos could not miss it. The photos also proved that after the peace marchers were ordered to move to the left side of the road, there was no time when the parade blocked or unable to continue.

Ironically, the most damaging testimony for the city came from the parade organizer and director John O'Donnell. O'Donnell said that he was concerned the peace-marchers' presence threatened public safety because he believed that their message would result in physical retaliation by parade spectators. He also testified that parade policy prohibits "social issues," and that the peace marchers' peace message violated this policy. O'Donnell's claims ignored the fact that the same book store with its Bookmobile and peace marchers marched in the same 2006 parade without incident. This also revealed his selective enforcement of the policy since he had allowed entrees from all four military branches, military auxiliary organizations, youth military cadet groups, Democratic and Republican political office holders and the local Hooters Restaurant!

Court testimony also refuted other fallacious statements made by O'Donnell. In a guest editorial in the local news paper a week after the parade, O'Donnell had written that 45 protesters jumped out of the crowd and joined the book store entree after the parade began. Not one of the city's witnesses testified to seeing this. It was proven that all of the peace marchers had assembled with the Bookmobile in the staging area and were cleared by the parade's staging-

area marshal to be part of the parade. Not only was it shown that O'Donnell had executed poor planning and negligent direction of his parade, he was exposed in a public lie about the peace marchers.

When the time came for the defense to present its case, Greg began by calling three witnesses to the parade who provided testimony that helped discredit witness testimony and other evidence that had been presented by the prosecution. Then, in a surprise move, he called only one of the defendants, Liz Fineron, to the stand. Liz, a 65-year-old retired teacher, was dragged across the pavement by two police officers and suffered serious skin burns and abrasions from the dragging. Left in a bleeding and injured heap on the side of the road, Liz was not initially arrested when other peace-marchers were. Disturbing photos of Liz being dragged and her resulting injuries resulted in widespread news coverage in the aftermath of the parade.

The police officer who dragged Liz across the pavement testified that Liz sat down in the street and refused to move. This officer claimed that it was only after she was asked to move by the police and warned that she would be arrested if she did not move that two officers picked Liz up under her shoulders and carried her off the parade route. The officer also suggested that Liz caused her own injuries by going limp while she was being carried.

Following the officer's testimony, Greg showed the video clips of Liz's arrest to the jury. The video showed clearly that Liz was standing when she was grabbed by the two officers. It also showed that it was the rapid speed with which she was grabbed and dragged that caused her to lose her footing, and that the officers continued to drag her without any pause or opportunity that would have allowed her to regain her stand.

When Greg asked Liz to tell the jury her medical condition, Liz disclosed that she had had open heart surgery, is diabetic, suffers from rheumatic arthritis, had both knees and hips replaced, has balance issues, takes several prescription drugs, and walks only with a cane. She explained that it was for these reason she chose to ride in the Bookmobile instead of walking with the rest of the peace marchers. Greg finally asked Liz if she could have sat down in the road that day

had she wanted. She said, "No, I could not keep my balance. I would fall flat on my face."

Following Liz's testimony, the defense rested its case. Closing statements were made, and the case went to the jury about 2:30 p.m. of the second day. Two and a half hours later the jury announced it could not reach a verdict. While we defendants would have preferred a not guilty verdict, a hung jury is much better than a guilty verdict. The fact that there was a division within the six-person jury panel speaks volumes about how divided Colorado Springs is regarding the issues of peace and the war in Iraq. It was amazing to me that several members of our jury were willing to buck the militaristic, nationalistic "pro war" culture of Colorado Springs, put aside their cultural biases and see the facts of our case without prejudice and not be persuaded to change their minds by their fellow jurors. Though we do not know which jurors sided with the defendants I can't help thinking our two African American jurors may have helped hang the jury in our favor. African American's are more likely to recognize police brutality when they see it. Even though police brutality was never mentioned, the photos and the video evidence made the brutality quite clear.

The City of Colorado Springs now must decide whether or not to try this case again. As we go to press with this issue of the v.p. we still do not know what the city's decision. Our attorney Greg Walta expressed it best in the Colorado Springs Gazette newspaper the day after the trial:

"The city is going to have to decide if they want this bad publicity to continue... the case never should have been brought to trial. They were afraid someone would throw a beer bottle at them. In most places, if someone throws a beer bottle at a peace marcher, they arrest the thrower ... Here, if you're afraid someone will throw a beer bottle at a marcher, we arrest the peace marcher. This is not how America is supposed to work."

For updates and access to photos, videos and articles related to the Colorado Springs St Patrick's Day Parade Seven, go to: <http://csaction.org/StPatsDay/31707.html>