TACTICS FOR THE DEFENSE OF ALLEGED ALF/ELF MEMBERS

Our first victory is that we defend ourselves, despite the fact that nothing enables us to forsee victory.
-Mauvaise Troupe, Defending the Zad, 9

Once charged, the chances are slim that any alleged ALF/ELF member is walking away from a federal prosecution free and clear. Evidence, or lack thereof, notwithstanding. The ALF/ELF are "organizations" the U.S. government, i.e. the corporate state, considers by far and away the top domestic terrorist threat. According to the FBI, the ALF/ELF were responsible for 43 of the 57 reported terrorist attacks committed between 2000 and 2005. See FBI, Terrorism 2002-2005, 64-65 (2005) at: http://www.fbi.gov/publications/terror/terrorism2002-2005.pdf.

The fact that both the ALF and ELF scrupulously avoid harming living beings, including people, means nothing to the U.S. government, which slaughters people on a daily basis in order to protect the property and interests of the corporations that control it. Hard evidence of the lengths to which the U.S. government will go to obtain convictions of alleged ALF/ELF members, including outrageous overcharging, is available for all to see in, among other things, published case law. E.g., U.S. v. Tankersley, 537 F.3d 1100 (9th Cir. 2008); U.S. v. Christianson, 586 F.3d 532 (7th Cir. 2009); and U.S. v. Waters, 627 F.3d 345 (9th Cir. 2010).

Unfortunately, there seems to be two things most, if not all, of the lawyers representing fail to consider: 1) the righteousness of the ALF/ELF cause and actions; and 2) the reason U.S. government attorneys are so eager to plea bargain these cases is to avoid the publicity of a trial, or trials, that would easily expose the inherent corruption of the U.S. government, and the corporations it represents, to the light of the ALF/ELF cause. As Emma Goldman so wisely said, "My trial would give me a wonderful chance for propaganda. I must prepare for it. My defense in an open court should carry the message of anarchism to the whole country." Thus is all else fails, ALF/ELF defendants, who are going down for an alleged crime against the state and property, should step up and insure the state goes down with them by speaking out, like Goldman, by claiming and explaining their actions in public!

These two points, alone, give the defense a decided advantage when negotiating plea-bargain agreements. An advantage ALF/ELF defendants have evidently failed to capitalize on to date. If anything is clear in the miasma of the U.S. justice system, it is that government attorneys fear publicity and will negotiate to avoid a trial where an ALF/ELF defendant can take the stand and expound on their beliefs. Consequently, it boils down to a game of chicken- the government's fear of publicity versus the defendant's, or defendants', fear of a long sentence. What, after all, do you think the reason for prosecutorial overcharging is? It gives them something to bluff with!

In no uncertain terms, the defense should make clear to the prosecution they plan on taking the case to trial, while emphasizing every potential weakness in the case. For example, in Marie, now Marius, Mason's case, the fact her ex, Frank Ambrose, got caught and turned informant for a deal, throwing her/him under the bus, is something almost all people find abhorrent. Nobody likes a snitch, not even jurys, but in our current patriarchal society a husband selling out his wife is the absolute worst kind of snitch. Assuming the prosecution's case would have been built around Ambrose's testimony, Mason's lawyers should have let it be known they would be moving for a pretrial hearing, where they would call Ambrose, the agent-in-charge and the Assistant United States Attorney (AUSA) to the stand and question them about Ambrose's deal while under oath. As such, they would have established a record they could use on cross-examination at trial, which is a big signal they were going to trial and Mason would be taking the stand, even if their intent was to negotiate a plea bargain.

This bluffing has worked well for me over the course of the long-running Drug War. I once negotiated a potential sentence of 10 to 20 years all the way down to a 1-year, time-served sentence. In my case, since I've a well-founded trust issue with most lawyers, who are, after all, officers of the court,

the bluffing was applied to my lawyer as well as the prosecutor. I demanded a pretrial motion be filed regarding any deals by any co-defendants, or potential co-defendants, in return for their testimony in court and remained adamant that I was going to a jury trial. Consequently, prior to my circuit court arraignment, the prosecution offered a plea bargain for 7 to 20 years. I turned it down flat. Subsequently, prior to a pretrial hearing, I was offered a sentence of 3 to 20 years, which I also turned down by stating I wanted to go to trial. Finally, on the day of trial, I was offered the 1-year, time-served plea bargain. However, by then, I'd figured out hey had no case, so I turned that down, went to trial, and was acquitted.

As officers of the court, most defense attorneys try to get you to take the first plea-bargain offered, especially court-appointed ones. Nevertheless, almost all of them are adverse to taking a case down to the wire and on trial. Especially, if they are being paid a flat fee. Time, after all, is money in the capitalist system and most lawyers are businesspersons, first and foremost, officers of the court second, and your representatives third. Such being the case, I must definitely advise taking it to the wire. If the AUSAs call your bluff, the go to trial, take the stand and expose the duplicity of the prosecution, the evidence against you, pointing out that unconstitutional statutes are not law and let the jury know they have the right to acquit you regardless of what the law says.

The latter is called jury nullification. John Jay, the First Chief Justice of the Supreme Court of the United States (SCOTUS) said in 1789, "The jury has a right to judge both the law as well as the fact in controversy." This statement was echoed by SCOTUS justices Samuel Chase in 1796, Oliver Wendell Holmes in 1902, and Harlan F. Stone in 1941. See U.S. v. Doughtery, 473 F.2d 1113, 1139 (D.C. Cir. 1972).

In sum, make a fucking stand for what you believe in. Wasn't that what you were doing in the first place? Use your trial as a platform to mobilize public opinion to support you and your case, especially if your bluff fails and you're going down anyway. Easy enough to do if your actions were aimed at saving the planet, the animals and all life from the grasping and destructive hands of greedy, self-serving, capitalist corporate scum!

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