

Judge tosses protest charges

Protesters accused of resisting police outside MacDill Air Force Base go free. Some say it's a victory for free speech.

By CHRISTOPHER GOFFARD, Times Staff Writer

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TAMPA -- Calling the state's case "a stretch," a Hillsborough judge Wednesday tossed out charges against eight antiwar activists arrested for blocking the road outside MacDill Air Force Base.

The activists all faced charges of resisting or opposing an officer, a first-degree misdemeanor punishable by up to a year in jail. But after listening to Tampa police officers testify about the May 26 arrests, County Judge Elvin Martinez found the case so weak he dismissed it before the activists' lawyers even began to mount a defense.

The activists called it a victory for free speech.

"I thought Tampa was a dangerous place for people to live and speak freely," said Dwight Lawton, 72, a Korean War veteran who was among the defendants. "This judge's decision raises my hopes that people will be able to exercise the First Amendment."

Lawton and other defendants said they believed the state pursued the case to chill dissent among antiwar activists. "They wanted to send a lesson," Lawton said.

Demonstrators gathered outside the courthouse Wednesday morning to support the so-called "MacDill Nine" as their trial began before Martinez, who heard the case without a jury.

While nine defendants faced trial for the MacDill protests, one of them, Wayne Helmbrecht, failed to show up for Wednesday's trial, prompting the judge to issue a warrant for his arrest.

Prosecutor Kristen Over argued that activists who blocked traffic in front of the MacDill base refused to leave when Tampa Lt. Larry Pinkerton told them to disperse.

One after another, however, Tampa officers testified that protesters went peacefully when placed under arrest.

Defense lawyers Paul Quin and Paul Rebein, who handled the case pro bono, argued that activists had given Tampa police notice that they intended to be arrested as a show of civil disobedience and promised to go peacefully.

But, the defense said, the activists expected they would face a lesser charge of unlawful assembly -- the charge for which they were originally arrested -- rather than opposing an officer. Plus, the defense said, activists couldn't hear Lt. Pinkerton's order to disperse because of the chanting crowd and the noise of a police helicopter.

"This is an inflated charge which does not fit what they did," Quin said.

Judge Martinez agreed. When the state finished presenting its case, the defense called for a dismissal of the charges. Even looking at the evidence in the light most favorable to the state -- as the law requires at that juncture -- Martinez found that the case didn't hold up.

"What's troubling the court is that the charge is obstructing or opposing an officer," the judge said. While unlawful assembly might have been a fitting charge, the judge said, "They did not resist arrest."

Martinez added: "I think the state of Florida was wrong."

The judge's decision was greeted with spontaneous applause and cheering in the courtroom, which drew a stern rebuke from the judge.

"During the arrest, everything was cool, everything was copacetic," said Adam Cameron, 32, a laborer from St. Petersburg and one of the defendants. "But as far as bringing these chump charges, they behaved like thugs. I don't think you should be thrown in jail because a cop tells you to move and you don't."

Omali Yeshitela, chairman of the African People's Socialist Party, who appeared at Wednesday's trial to show support for the activists, called the judge's ruling "a major victory for free speech and the right to dissent."

"They ratcheted the charge up in an attempt to frighten (people), that if they engaged in civil disobedience they would pay a dear price for it," he said. "That's why this is such a dear victory."

Saying Tampa police had shown a pattern of overzealousness toward dissent, activists cited the June 2001 arrests of three peaceful, sign-waving protesters at a rally for President George W. Bush at Legends Field. In that case, protesters were charged with trespassing, though Hillsborough State Attorney Mark Ober dropped the charges.

Along with Lawton and Cameron, the cleared defendants were Penny Hess, Arlen Hooley, Deidre Martin, Roger Otterson, James Peters and John Barrieau.

Ober, the state attorney, said there was no political pressure exerted on his office in the case, adding, "We ethically would never upgrade a charge because we wanted to chill any lawful conduct. "I can't think of anyone who has more respect for the Constitution of this country than myself," Ober said. "However, there is a great difference between freedom of speech and sitting down in the middle of streets and potentially injuring not only protesters but bystanders and citizens."

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