“Let's Make These [Molotovs] So I Can Go Bomb a F---- Bank”:

The Failed Terrorism Case Against the NATO 3

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ABOUT THE NATO 3

On May 16, 2012, Chicago cops raided an apartment in the Bridgeport neighborhood of Chicago in an all-too-common attempt to scare people away from the imminent protests against the NATO summit. With guns drawn, the cops arrested 11 people in or around the apartment and quickly disappeared them into the bowels of the extensive network of detention facilities in Cook County, Illinois.

Brent Betterly

After awhile, a few things started becoming clear: two of the arrested "activists" were actually undercover Chicago cops who had targeted the real activists for arrest, six of them were illegally held and released at the last possible minute before court action could be taken to force their release, and three had been slapped with trumped-up, politically motivated terrorism charges for allegedly creating Molotov cocktails. These three—Brent Betterly, Brian Jacob Church, Jared Chase—are now known as the NATO 3. They were ultimately charged with 11 felony counts: material support for terrorism, conspiracy to commit terrorism, possession of an incendiary device (four counts), conspiracy to commit arson, solicitation to commit arson, attempt arson, and unlawful use of a weapon (two counts). The terrorism charges are part of the Illinois state version of the USA Patriot Act, which was passed shortly after 9/11.

The NATO 3 were facing up to 40 years in prison each. Prior to trial, they were being held on $1.5 million bond each; after their verdicts were read, the judge revoked their bail so they had no chance of being released before sentencing. As such, they have been incarcerated since their arrests in May 2012. After being held a month without formal charges, the NATO 3 were indicted on June 13, 2012. Even so, the prosecutors refused to provide their defense attorneys with copies of the indictment, invoking their seldom-used right to withhold the indictments until the arraignment. The presiding judge called this petty, bad-faith move "a little strange" but did not order the prosecutors to hand over the indictments until the arraignment on July 2. Nevertheless, the defense attorneys were able to obtain the indictments from the court clerk on June 20.

Jared Chase

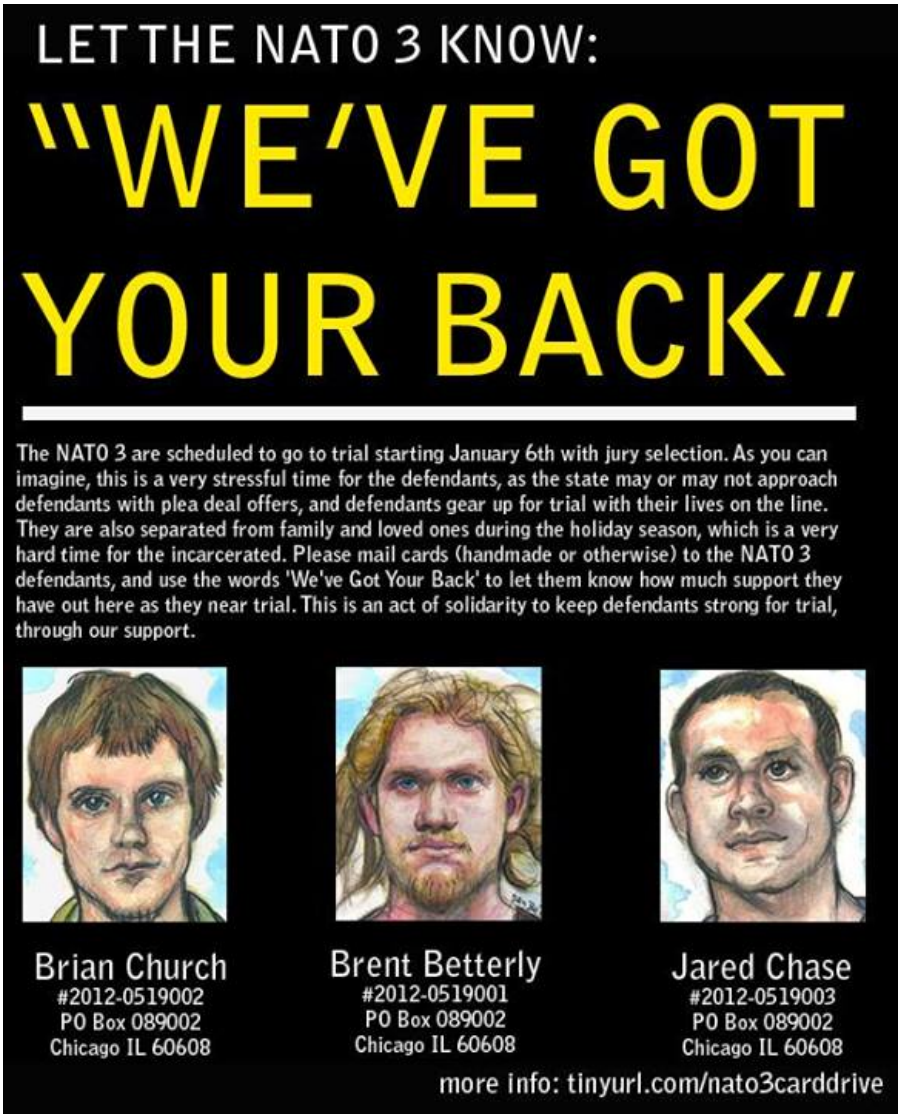
The "discovery" process began in earnest after the arraignment. In this phase of the pre-trial proceedings, both sides must present the other with all the evidence they have collected and could use at trial. Throughout the lead up to trial, the prosecutors clearly demonstrated their desire to overwhelm the defense with mountains of useless, irrelevant information instead of providing substantive evidence to back up their outlandish charges. The defense team steadily sifted through about three terabytes of electronic information and thousands of typed pages of information as part of the defense preparations.

The prosecutors' antics did not prevent the defense attorneys from mounting a vigorous defense or from challenging the politically motivated nature of the charges. The attorneys, many of whom are

Brian Jacob Church

involved in the People's Law Office or National Lawyers Guild-Chicago, are all too experienced in fighting back against prosecutorial abuse and state repression in Chicago. In late January 2013, the defense attorneys filed a motion to dismiss the terrorism charges for being unconstitutional both in general ("on their face") and as applied to these defendants. Oral arguments on the motion happened on March 19 and the judge issued his order denying the motion on March 27. While the judge ruled that the law itself is constitutional and while the terrorism charges withstood that legal challenge, the defendants reserved the right to file a post-sentencing motion to address the constitutionality of this law as it was used to prosecute them.

The constitutionality challenge marked an important step in Brent, Brian, and Jared's fight against these politically motivated charges and for their freedom. This zine documents their trial, which took place in January and February 2014. The zine consists of court announcements sent out by the NATO 3 Defense Committee during the trial. These announcements, created based on handwritten notes and "tweets" (messages sent over Twitter) from supporters in court, have only been lightly edited from their original form for readability and relevance.



JURY SELECTION

nato 3 jury selection has begun, two charges dropped

01.13.2014

Jury selection in the NATO 3 conspiracy and terrorism case began this morning and continued until the late evening. In the morning, the prosecution announced that two charges (Counts 10 and 11) had been dropped. These were both unlawful use of a weapon charges. The defendants are now heading towards trial with 9 counts instead of the 11 they have faced since they were arrested in May 2012.

Jury selection will resume in the morning. The judge also stated that the trial itself will commence with opening statements on Tuesday, January 21st, so stay tuned for more information and plan to start packing the courtroom then!

The defendants seemed to be in good spirits and engaged in the jury selection process (to the extent they can be in this thoroughly disempowering system), despite the long hours today. Please take a moment to write them a note of solidarity today to let them know you've got their back!

prosecution reduces charges to 7 of the original 11, public viewing restrictions announced

01.14.2014

The NATO 3—Brent Betterly, Brian Jacob Church, and Jared Chase—sat through another full day of jury selection today. Jury selection will resume tomorrow morning. A significant development in the case today was that the prosecution will not be trying an additional 2 counts that the defendants had been facing, reducing the number for trial down to 7 of the original 11 counts. The defendants will now be tried on the charges of material support for terrorism, conspiracy to commit terrorism, possession of an incendiary device (4 counts), and solicitation to commit arson.

We have also learned more about the public viewing process that will be used during trial. This process seems to be in the works still, so stay tuned for future updates. At this point, it seems that any person interested in attending the trial at any point will need to go to the Cook County criminal courthouse at 2650 South California Avenue to register as a spectator. Each person will need to provide a state-issued photo ID so that a background check can be run. This check will look for warrants and active orders for protection issued for

anyone involved in the trial process (e.g., defendants, court clerks, attorneys, etc.). We should know more about the registration location and hours soon, so stay tuned.

Once people are approved to be a spectator, they will need to show their photo ID each time they come to view the trial. Seating will be filled on a first-come, first-served basis until the courtroom is full. Additionally, all approved spectators will need to be in their seats 20 minutes prior to the start of court in the morning. No one will be allowed to enter or leave the courtroom while court is in session, so everyone will need to wait to use the restroom until the judge announces that the court is in recess. Open seats in the courtroom can only be filled when the court is in recess as well.

The public will also be prevented from taking notes during trial. Spectators cannot bring in pens, paper, bags, or purses (only personal items such as keys and wallets). The judge has outlined more rules in a trial decorum order, which should be published shortly and which we will be posting on our website.

The defense attorneys vigorously objected to these restrictions, arguing that they prevented the public from actually attending the trial and could raise due process issues for the defendants since they have the right to a public trial. The judge entered the trial decorum order over defense objections.

As much as we decry these restrictions for the ways they prevent us from showing the defendants the full support and solidarity they have from the community, we do not want to do anything to jeopardize their legal defense or shine a negative light on them during trial. We are thus asking all supporters who come to trial to abide by all the rules set forth by the judge.

We hope that these restrictions will not dissuade you from helping us pack the courtroom for the defendants! However, if you are one of the many people we fear will be unable to attend or will be intimidated out of doing so by these restrictions, you can still support the defendants in other ways! See our call-out for trial solidarity to find out how you can support them.

jury selected for nato 3, trial set to begin next tuesday

01.16.2014

Today, the final jury members were selected for the NATO 3 trial. The trial itself is scheduled to begin next Tuesday, January 21st at 11am in Courtroom 606 at the Cook County Criminal Courthouse, 2650 South California Avenue. We are encouraging everyone to pack the courtroom for the NATO 3 starting next Tuesday! We also have solidarity t-shirts available online now!

While the new t-shirts are exciting, there is unfortunately an elaborate and daunting process to be able to attend the trial. Anyone who wants to attend the trial at any point, regardless of whether for one hour or the entire trial, must register in advance in the lobby of the courthouse from 2-5pm on any day the courthouse is open. Each person must provide a state-issued photo ID and subject themselves to a background check for warrants and orders of protection against anyone involved in the trial. People with open warrants will be taken into custody. See the Sheriff Office’s full announcement of spectator regulations.

We received some additional clarification on how this policy will work:

- Everyone must register once and submit to a background check. Registration can only be done from 2-5pm when the courthouse is open and must be done the day before the first time someone wishes to attend the trial.

- Once approved to be a spectator, each spectator must sign up the day before they wish to view the trial.

- Each day, seating will be made available to registered spectators who signed up the day before on a first-come, first-served basis. All spectators must be in their seats 20 minutes before the start of trial in the morning.

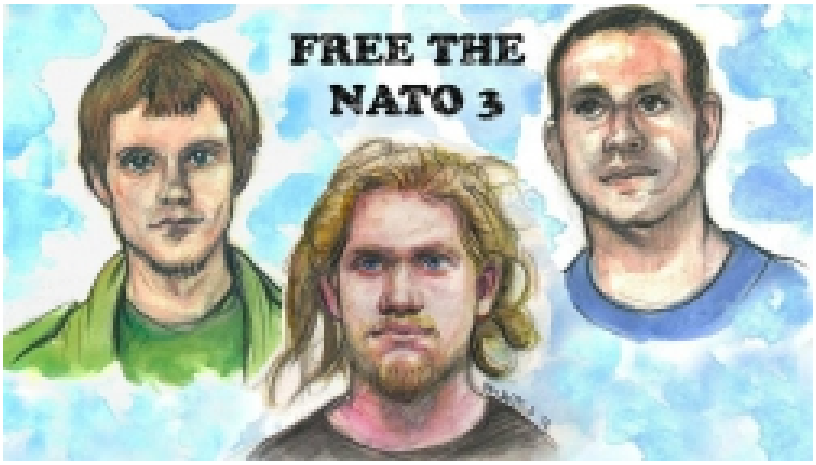
- Registered spectators who did not sign up the day before will be given seats on a first-come, first-served basis if there are seats left after all the spectators who signed up the day before have been given seats.

- Spectators who attend court one day and wish to return the next will need to sign-up for that day during the 2-5pm window on the day they are in court.

Our understanding is that this process is still in the works, so there may be additional changes in the future. For now, we are urging everyone interested in attending the trial to register tomorrow from 2-5pm! We expect the opening statements on Tuesday to be fully packed with media and the public, so please register tomorrow and get to the courthouse as early as possible on Tuesday morning!

The courthouse itself bans electronic devices, including cell phones, and other items. We encourage everyone who attends to read these policies thoroughly: http://www.cookcountycourt.org/HOME/CellPhoneElectronicDeviceBan.aspx. Storage lockers can be rented at the courthouse and usually from vendors outside the courthouse for a few dollars.

Finally, the judge has issued the NATO 3 Trial Decorum Order that lists the prohibited behaviors and items in the courtroom during trial. Please read this thoroughly, as it bans any signs or gestures of solidarity with the defendants, as well as items such as bags and purses. We will, however, be allowed to have pens and paper to take notes during trial. We ask all supporters to follow all the judge's orders closely, as not doing so could negatively impact the defendants as well as lead to contempt of court charges for the person found to be violating the orders.



TRIAL

opening statements conclude, undercover cop "gloves" begins testimony

01.21.2014

The NATO 3—Brent Betterly, Jared Chase, Brian Jacob Church—started their trial today with a full complement of defense attorneys and a courtroom packed with supporters. The prosecutors started off the opening arguments and were immediately followed by the defense attorneys. After the lunch recess, an audio technician who enhanced the audio on a number of tapes that make up a key part of the state's alleged evidence against the three defendants testified that he had enhanced the audibility of the tapes but not altered the content in any way. His testimony was immediately followed by Chicago Police Officer Nadia Chikko, known as “Gloves” during her infiltration of the Chicago activist community.

The court proceedings ended part way through her testimony and court will resume at 10:30am tomorrow. All members of the public must be seated by 10:15am, so we encourage everyone planning on joining us in packing the courtroom to arrive early so they have time to pass through the two security screening processes required to get into Courtroom 606.

Prosecution Opening Statements

Assistant State's Attorney Matthew Thrun handled the state's opening statement, clearly attempting to paint the defendants as dangerous terrorists bent on attacking the city. His statement closely paralleled the bond proffer in this case. In sum, he alleged the defendants came to Chicago to get in the media spotlight. They traveled together from Florida with weapons, tactical vests, and other equipment to enact a plan. They also set about recruiting people familiar with Chicago to help them with their plan. Thrun argued that they discussed a variety of plans, including shooting an arrow with a note attached through a window of the Mayor's house and building a homemade mortar out of PVC pipe, but nothing satisfied them until they decided to build Molotov cocktails. Once they had done this, the undercover cops who had infiltrated their group got a search warrant approved and then raided the house where the Molotovs had been assembled. The jury would be convinced beyond a reasonable doubt that these three defendants had intended to terrorize the city, had materially supported each other in committing terrorism, and conspired to commit terrorism.

Defense Opening Statements

Brian Jacob Church

The defense attorneys wasted no time in refuting the state's claims. Sarah Gelsomino of the People's Law Office began the defense opening statements. Gelsomino and Michael Deutsch represent Jacob. Gelsomino

acknowledged that “terrorism” is a big, scary word and that it naturally leads people to fear for themselves, their families, and their communities. But this case is not a terrorism case at all and there is no credible evidence that the defendants ever posed a threat to anyone, she argued. Jacob became involved in Occupy because he felt unsure of his future and was concerned with government actions to support the rich at the expense of the poor and working class. As a novice in political protest, he educated himself on summits like NATO on the internet and became fearful of police violence. He was also in a vulnerable position, as he was insecure and struggling with chemical dependency issues. The cops exploited his situation because they were under pressure to make arrests and had been infiltrating the Chicago activist community looking for anarchists since February 2012 with no luck until then. Thus, the undercovers pushed the defendants to assemble Molotovs, even buying the gas for them. The defendants themselves never had a plan to build or use Molotovs. They never had the intent to commit terrorism.

Undercover cops Mehmet "Mo" Uygun and Nadia "Gloves" Chikko

Brent Betterly

Lillian McCartin made the next statement as co-counsel, along with Molly Armour and Paul Brayman, for Brent. She opened her statement with the image of a man stepping out into a chilly Chicago evening to make a phone call to ask what to do with four Molotovs. This man was Chicago Police Officer Mohmet Nguyen, known to the activists he had infiltrated as “Mo.” McCartin said that Brent had joined Occupy when he was down on his luck and had found a home and a way to make the world better for himself and his young son. Through going to different Occupy encampments and protests, he saw cops harass and brutalize people, which made him grow distrustful of them. He was also new to large political protests and unfamiliar with cities like Chicago where millions of dollars are spent on security before summits like NATO. He also met the undercovers after he had arrived in Chicago and these undercovers set up meetings with the defendants and brought beer with them to the meetings, fueling drunken comments and bragging. On the night of May 16, Mo and Gloves brought beer with them to an apartment in the Bridgeport neighborhood and started working their plan to create some reason to make an arrest. They had been frustrated by the lack of anything happening or any plan being made, so they were getting desperate. The evidence will show, McCartin argued, that there was no plan or intent to commit terrorism and that the only just verdict is a not guilty verdict.

Jared Chase

The final defense opening statement was made by Tom Durkin, co-counsel with Joshua Herman for Jared. Durkin submitted to the jury that they would clearly see that there is no evidence of terrorism in this case and that the Illinois terrorism statutes were charges looking for defendants. He also argued that the evidence will show that the investigation in this case began as early as September 2011, not in early 2012 as the state had said. He also said that it is curious that this is a state case and not a federal case, like nearly every alleged terrorism case. Chicago is also a dangerous place for anarchists and for the First Amendment, going back to the police cracking people's skulls at protests in 1968 to the Haymarket incident. This investigation into the Chicago activist community was spurred by incidents in Vancouver, Canada allegedly involving the Black Bloc and dangerous anarchists. The cops needed a lawful purpose for infiltrating Occupy Chicago and spent many hours surveilling people, running license plates, and going to different events in their search for anarchists. The cops were looking for a threat to justify the expenditures on the NATO summit, particularly

after the G8 summit changed locations and there was no longer coinciding summits being planned. Thus, the cops had motives for shaping this case and making an agreement to commit illegal acts. Since conspiracy charges require an agreement and an agreement with the police is not enough, the evidence will show that there was no conspiracy to commit terrorism. He also argued that they never intended to intimidate or coerce a significant portion of the civilian population, a key component of the terrorism charge.

Testimony by Nadia Chikko, aka “Gloves”


Nadia "Gloves" Chikko spotted in uniform

The court proceedings today concluded with the first part of testimony by the undercover cop known as “Gloves.” She provided quick and lengthy responses to Assistant State's Attorney John Blakey's questions about her undercover investigation. Many of her responses received objections from the defense because she was jumping ahead and providing narratives that were not asked for by the questions; some of these objections were sustained and some were overruled. She testified that she was put on a 90-day undercover assignment in February 2012 and started attending protests and other activist events. She had met an activist at the Woodlawn Mental Health Clinic closure protests in mid-April 2012 and, through him, met the defendants. She then went into detailed narratives of her conversations with Jacob, claiming that he instigated contact with her and Mo. Her testimony closely followed the bond proffer, even to the extent of using some of the exact quotes that Thrun had used in his opening statement and that the prosecution has used repeatedly in various motions and replies throughout this case. The prosecution entered a number of photographs and a Guy Fawkes mask into evidence during this testimony. Court ended when the prosecutor was ready to shift into the audio recordings the state has entered into evidence. These recordings and further testimony are expected to begin the proceedings tomorrow morning at 10:30am.

undercover cop "gloves" continues testimony, more tomorrow

01.22.2014

Nadia Chikko, aka “Gloves,” spent the day on the stand giving testimony about a litany of audio recordings from the wires that she and the other undercover cop involved in this case, Mohmet (“Mo” or “Turk”) Nguyen, wore while infiltrating the Chicago activist community and targeting these defendant. The state has introduced 55 audio recordings into evidence. Chikko's testimony went through more than 30 of the recordings today, with the remaining expected to be covered tomorrow.

Her testimony and the audio recordings clearly show the ways the undercovers consistently pushed the defendants to turn their rambling conversations into plans to commit illegal acts. They also consistently talked big about themselves to make themselves sound experienced, militant and “down.” While doing so, they pushed the defendants for information about other people, planned protests and other events. They also invited themselves over to hang out with the defendants in the apartment they were staying at, offering to bring beer with them. Some of the recordings included conversations from inside the apartment that was later raided. In

one of these, Mo helped take photos of activists wearing masks and holding legally owned items such as novelty knives and a compound bow.

The testimony so far will likely sound eerily familiar to people who are familiar with police infiltration of activist communities and movements for social justice. Even based on her narrative of the case so far, it's clear that the defense was right when arguing in opening statements that the Illinois terrorism statutes are charges looking for defendants.

After Chikko's testimony is complete, defense attorneys for each of the defendants will have their chance to cross-examine her and punch holes into her narrative.

undercover chikko cross-examined, admonished to review recordings and answer questions

01.23.2014

The third day of trial consisted of more testimony from Officer Nadia Chikko (aka “Gloves”). We picked up where yesterday’s testimony left off, listening to nearly all of the 55 audio recordings from May of 2012, with only a handful that were left unpublished for her partner, Mehmet Uygun (aka “Mo” or “Turk”), to testify to.

As with yesterday, the recordings for today continued to show that she and Mo were the leaders of the operation, and pushed the NATO 3 into plans to commit illegal acts. At one point, she even said she tried to build a mortar herself. Later in the recordings, the undercovers suggest the idea of making Molotovs multiple times and direct defendants Church and Chase to get the materials, even offering to pay for the gasoline.

After the hour-long recess for lunch, the defense came back with cross-examination. Michael Deutsch of the People’s Law Office began with cross-examination for Brian “Jacob” Church. “Gloves” had to be instructed multiple times to answer Deutsch’s questions directly as most were yes or no questions, instead of answering how she wanted to answer. She was asked simple questions, such as whether or not “Mo” was the first to bring up Molotovs on the 16th of May, and she would answer about how she wasn’t sure and would have to review all of the tapes from that day.

Deutsch then began questioning her on her undercover activities prior to May of 2012. Mo and Gloves went to places such as the Heartland Cafe and Permanent Records to look for anarchists, and when they didn’t find any they took down the license plates of all those that attended the events.

Deutsch even remarked that for the prosecutor Gloves seemed to have a very good memory, but when he asked her questions she could not recall most of the answers and said she would have to re-listen to all of the tapes.

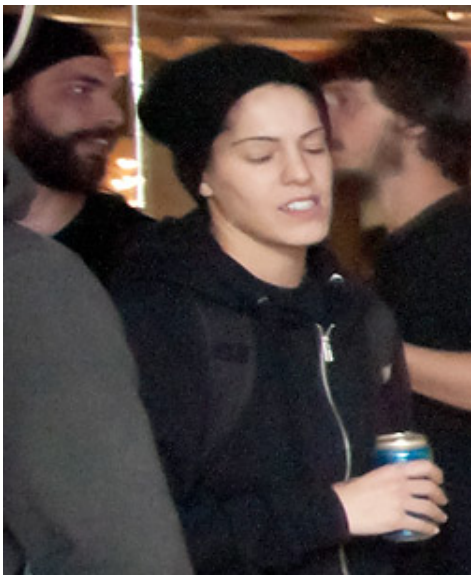
undercover chikko finishes testimony, cpd officer bacius reveals gps tracking of church's car

01.24.2014

On Friday, January 24, undercover Chicago cop Nadia Chikko, aka “Gloves,” resumed her testimony under cross-examination by the defense attorneys. The previous afternoon, she had been admonished to review the recordings from the case and ensure she was able to answer the questions asked of her. Early on today, she was admonished once again to answer the questions asked, not the ones she wanted to answer. At one point, she told one of the defense attorneys that she knew “what he was getting at” with his questions as she was trying to provide the information she wanted to say on the record. The attorney's question about what she thought he was getting at was not permitted, however, and the cross-examination moved on.

Through cross-examination, Chikko revealed that a GPS tracking device had been attached to Brian Jacob Church's car during the investigation. She provided few other clear, concrete answers to questions, however. Through persistent defense questioning, she ultimately admitted that she had offered Church half of her beer on May 16, 2012 (hours before the defendants were arrested) and that she knew that Church was only 20 years old at the time. This admission came after she asserted that she and her partner Mehmet Uygun (aka “Mo” or “Turk”) never provided the defendants with alcohol or drugs.

Chikko also testified that she had never seen any of the defendants under the influence and that her undercover work in the 18th District of Chicago had made her highly experienced in identifying when people are intoxicated. Defense attorneys asked her about a recording in which Uygun asked Church if he was stoned and Church said he was. Jared Chase also said they were both a little drunk as well. Later on in the conversation, after Church apologized to the undercovers for bringing them out to a park late at night when nothing was accomplished, Uygun told him to write out a list of what he needed to do to create a plan for direct actions “before hitting the bowl in the morning.” Chikko testified that she believed Uygun was referring to going to the bathroom for “Number 2,” not smoking marijuana.



Undercover cop Nadia "Gloves" Chikko in her "anarchist" disguise: black clothing and beer

Much of the defense attorneys' questions were aimed at exposing the holes in Chikko's testimony and the ways she had acted as an infiltrator during the case. Through cross-examination, it was revealed that the Chicago Police Department defines an undercover officer in First Amendment investigations (i.e., operations that may touch on constitutionally protected activity) as one who attends meetings and other events to gather information but does not join the group or influence its members. In contrast, an infiltrator is defined as a police officer who attends meetings and other events, joins a group or groups, and influences members of the group as well as the group as a whole.

The recordings submitted into evidence by the prosecution clearly

show Chikko and Uygun consistently telling the defendants (primarily Church and Chase) what to do, pushing them to commit to tasks, and bringing up the topics of explosives when none of the defendants were talking about them. Despite Chikko's repeated assertions that neither she nor her partner directed the flow of conversations, suggested ideas for actions or targets, or otherwise influenced the defendants, she had to admit that Uygun had said early in May that he would create Molotovs and that she did not recall any of the defendants talking about Molotovs on May 16 until Uygun brought up the idea.

She also admitted that she had pulled beer bottles down off a shelf for the purpose of making Molotovs. The recordings further reveal that Uygun had said that he had $2 to pay for gas and that he had told the other defendants and Chikko that he and Chase were going to go get gas so everyone else should stay at the apartment. However, Chikko testified that Uygun had not bought the gas and that him saying that he had money for gas was just part of “flowing with the conversation.” She also testified that Uygun had torn a strip of bandanna to be used for the Molotovs.

Questioning of Chikko today also revealed that, after the Molotovs had been created, Church and Brent Betterly left the house and drove to Indiana (i.e., crossed state lines) to pick up one of Betterly's friends. During that time, the undercovers went with Chase to buy more beer. Later in the evening, after all the defendants had returned, the search warrant that Uygun had called in was approved. The raid took place while Chase and Church were in the apartment, whereas Betterly had returned from Indiana and then left the apartment to go buy cigarettes. Through cross-examination, Chikko admitted that Betterly had not been present during the vast majority of her undercover work and that she had never asked him if he had any plans for the Molotovs.

Chikko also testified about some of her assignments in March and April 2012, in which she was sent to various cafes, coffee shops, and punk or rock shows to investigate “violent anarchists” and other people who wanted to infiltrate peaceful protesters to get them to commit criminal acts. One assignment was to go to Heartland Cafe, a popular cafe in the Rogers Park neighborhood of Chicago, to see if anyone was talking about dangerous criminal activity over their meals. She was also assigned to surveil an activist who was a self-proclaimed anarchist.

Notably, Chikko admitted that a quote that has been attributed to Church and used consistently in the state's media engagements and court documents was based on her memory alone since that conversation was not recorded. Church is alleged to have said, “the city doesn't know what it's in for” and “after NATO, the city will never be the same.” Both the prosecution in its opening statement and Chikko during her testimony repeated this alleged quote verbatim.

After Chikko's testimony ended, CPD officer Russell Bacius took the stand to talk about his role in the investigation. He is assigned to the Counter Intelligence Unit and has worked on several high-profile security situations, including both the NATO summit and the investigation of the NATO 3. He testified that he had

been part of a surveillance team assigned to install a GPS tracker on Church's car. He had tested and installed the tracking device, which was in a weatherproof container and secured to the car with magnets. He installed the device on the undercarriage of the car near the rear wheel in about 15 seconds. This device then sent periodic GPS information to a CPD computer.

Prosecutors displayed a large map of the car's approximate movements on May 11, 2012. The GPS information from the tracking device showed the cars general movements but not the exact route. Bacius testified that he believed that the data from this day showed the defendants driving around downtown Chicago to find targets for their criminal attacks. He believed that these targets included the Federal Reserve Bank and Obama's campaign headquarters. The campaign headquarters had a “geofence,” a perimeter of two or three blocks around it that monitored when tracking devices such as the one on Church's car entered the area, and the GPS tracker recorded at least one instance of the car coming within the geofence perimeter.

Bacius admitted, however, that he did not know how long the car had been in this geofence perimeter. He also admitted that he knew that Occupy Chicago had been camped out around the Federal Reserve on May 11, 2012. However, he said he did not believe that the car's movements around this area of downtown could have been to find free parking. Through cross-examination, he was also forced to admit that the tracking device does not show who was in the car at specific times or why the car was in motion.

The CPD officers' testimony came across as mostly lacking in credibility and intelligence. The weak performance in the prosecution's case-in-chief so far should bring hope to every activist, as the NATO 3 are fighting these politically motivated charges and the state is quickly losing control over the narrative it had created about this case. Hope cannot bring our comrades home, however, so we must all keep standing in solidarity with the NATO 3 and helping them fight for their freedom!

police flushed liquid from beer bottles down toilet, other testimony on alleged evidence

01.27.2014

The NATO 3—Brent Betterly, Jared Chase, Brian Jacob Church—were in court for a few hours today for testimony from a few of the state's minor witnesses in the case. The witnesses who appeared today were a Chicago cop who recovered a large plywood sign (called a “shield” by the state) allegedly built by some of the defendants, a cop who recovered beer bottles from the apartment where two of the defendants were arrested, and a fingerprint analysis expert. A couple of the state's witnesses were unable to make it as scheduled today, so court was adjourned early and will resume at 10am tomorrow. All supporters must pass through the two security checks and be seated by 9:45am tomorrow. We are expecting full days in court for the rest of this week except for Friday, as the trial will not be happening that day.

The cop who claims to have recovered the large plywood sign, Russell Arnolds, testified that he and his team had found it face down in an alley about half a block from the Occupy Chicago space. The sign is painted red on one side with black text reading, “Austerity (A)in't Gonna Happen” (the “a” in “ain't” is a Circle A). Arnolds and his team took the from the alley and inventoried it into evidence. Arnolds noted that one of the

handles on the sign was broken, with one screw missing and another one bent. He testified that he believes this sign is a shield that the defendants planned to use defensively and to attack the police. He testified that he believes the screws protruding from the handles through the front of the sign were intentionally made to stick out about 3/4 of an inch and were painted to camouflage them so they would avoid detection. Under cross-examination, he admitted that he had never seen anyone use the sign as a weapon.

Arnolds also testified that he was part of a team that surveilled Church and Betterly as they drove from Chicago to Indiana to pick up a friend. This trip took place between the time when the alleged Molotovs were created and the defendants were arrested. The state introduced surveillance photos of the defendants at a gas station in Indiana. Arnolds testified that he did not see any criminal activity while monitoring the defendants and was not aware that gas in Indiana is typically 30 cents cheaper per gallon than in Chicago, which makes filling up a gas tank there an appealing option for most people.

Retired Chicago cop Clarence Jordan next testified about his role in processing the evidence collected from the apartment after it was raided (he retired last year). He said he took photos of the outside and inside of the apartment and that he smelt gasoline when he entered the bathroom of the apartment. He said the smell got stronger when he lifted the lid on a white metal trashcan in the bathroom. He claims he saw four Molotov cocktails in the trashcan and told the officers on the scene that the bomb squad would have to come to the scene for that evidence to be handled. Once the bomb technician arrived, Jordan took the bottles out of the trashcan and inventoried them. During this process, the bomb technician emptied some of the liquid out of the bottles and flushed it down the toilet. Under cross-examination, Jordan admitted that no one wore protective suits when handling the bottles and he only wore his standard gloves when doing so.

The final witness of the day was Julie Wessel, a latent fingerprint analysis expert. Latent fingerprints are those left on objects after someone touches them, not ones taken during a fingerprinting process (e.g., using ink and paper). Wessel presented a slideshow explaining how fingerprint collection and analysis works. She also testified that only one of the four bottles alleged to have been Molotovs had usable fingerprints on it, and this bottle only had two usable prints. She further testified that the prints matched Church's prints. Under cross-examination, she admitted that her analysis could not tell when Church touched the bottle.

cops admit explosive residue consistent with bottle rockets, most other evidence not proven to be owned by defendants

01.28.2014

NATO 3 defendants—Brian Jacob Church, Jared Chase, and Brent Betterly—were in court today for another short day of trial with 3 witnesses called by the State Attorneys. First was the former manager of a BP gas station in the Bridgeport neighborhood near the apartment raided by CPD. 16 video recordings were admitted into evidence of defendant Jared Chase and undercover CPD officer Mehmet Uygun ("Mo") walking to and from the station to purchase gasoline in a gas can on May 16, 2012. Uygun is earlier captured on audio recordings offering to pay for the gas.

The former manager also testified with a whole new story that Church had been at the gas station the previous day with a milk jug attempting to purchase gasoline, and was denied the sale because of the container he allegedly planned to put it in. He claimed he had realized this days after he gave CPD the surveillance videos of Chase and Officer Uygun on May 19th. Yet he failed to inform CPD of this alleged prior attempt at purchasing gas by Church for 20 months, only reporting it in January 2014, well after video had been destroyed. The defense team quickly revealed through cross examination the witness posted to the social media site Reddit about his desire to have control of the videos and his concern about others making money off them, his desire to be a 'key player' in this case as possible motivation for a new story 20 months later, as well as fabricated claims unrelated to the case used to get attention. The videos also revealed Chase and Officer Uygun walking away from the station, with Chase handing Uygun the gas can to carry, which he did.

The state's next witness was CPD officer Pete Flagler of the Intelligence Unit, who was assigned to surveillance of Church's vehicle. He testified to obtaining a search warrant for the car on May 16th and about the items that were seized from the car, including a guitar case with a variety of novelty, hunting and survivalist gear, gas can, computer and a bag of unidentified fireworks, which the state destroyed. The GPS tracking device on Church's car was also submitted into evidence.

A forensic scientist in Trace Chemistry employed by the state was next to take the stand. He testified that he undertook a variety of analysis tests on various fluids, including ones on black bandanas torn up for alleged molotovs by undercover officer Uygun, samples recovered from inside beer bottles before the remainder was flushed down the toilet, and from inside a rubber piece of hose, all which he testified to being gasoline. He also testified to black powder residue being found inside foot long pieces of plastic PVC pipe, consistent with bottle rockets similar in size to a firecracker. In cross examination, Durkin got the witness to admit gasoline does not a Molotov make, and professionally he knows that molotovs are effectively made with the additional ingredients of motor oil and kerosene, which were not at all present in his findings.

CPD officer on the NATO surveillance team, Oommen Sleeba, testified about items seized from the Bridgeport apartment after the house raid. Defense attorneys were quick to reveal that items seized were not identified as the property of the defendants, as there were 12 people living at the apartment at the time, and that notebooks seized in the raid failed to match defendants' handwriting samples taken by the State

Attorney's office. A police scanner was seized as well, both legal to own and available on Amazon,

After the jury exited, the day ended with Judge Wilson hearing a motion filed by the state's attorneys for curative instructions to the jury, in which they claimed that some of the defense lawyers' mentions of why the terrorism case was being prosecuted in a state rather then a federal court, as well as those related to first amendment issues, prejudiced the jury and necessitated an interruption in court proceedings with instructions regarding these issues. Judge Wilson did say the State may be making a bigger issue of the 1st amendment issues then need be, and corrective measures are being negotiated, with an indication from Judge Wilson that his instructions to the jury will be at the end of the trial and not before.

defense attorney calls state's attempt at getting some evidence in "desperate," facebook and other electronic records submitted over defense objections

01.29.2014

Trial today consisted of a long series of tedious evidence submission processes. The defense objected to many of the state's attempts to submit evidence collected from computers seized during the raid when Brian Jacob Church and Jared Chase were arrested, but most were overruled. The defense did win some of their arguments, though, preventing some evidence from getting in and ensuring other important pieces of evidence got in over the state's objections. Undercover Chicago cop Mehmet Uygun, aka "Mo" or "Turk," was expected to take the stand but did not because the proceedings today drug out for so long. He will take the stand at 10am on Thursday.

The first cop to testify was from the Regional Computer Forensics Laboratory. He testified that he had examined Church's GPS device and recovered location data from it. The state tried to submit evidence about an address listed under a "Jared" in the address book on the device but the defense objected, saying this person was clearly not Jared Chase.

Defense attorney Tom Durkin called the state's attempt at getting this evidence in "a desperate move." Later on in court, Durkin argued that the logical fallacy in the state's case is that they're only charging the NATO 3 with conspiracy, yet they keep trying to submit into evidence possessions, statements, and actions of other people to prove that there was a conspiracy. Further, he said he still did not know what the alleged terrorist act was based on the state's case so far.

The state went on to try to get more circumstantial or completely irrelevant evidence in. They tried to argue that a computer seized in the raid that had an internet browser history record of Betterly accessing his Facebook account in March 2012 should be admitted. The NATO 3 came to Chicago in April 2012 and were arrested on May 16, 2012. The judge said the record showed it was last accesses on March 2, 2012 and it was impossible to tell who created and saw it, so he did not allow it. Defense attorney Molly Armour also

successfully argued that some of the Facebook conversations the state was submitting should be further redacted to not be prejudicial against Betterly. However, the prosecution was successful in getting some news articles recovered from computers into evidence.

Next, the state read stipulations about the Facebook records they had received. Both sides agreed that Facebook is a social networking site, users have to sign in with an email address and password, and Facebook handed over the records in response to a legal request as a normal course of business.

The purpose of this stipulation was to allow conversations and posts from the defendants' Facebook accounts into evidence. The state also called a forensic examiner who works for US Customs and Border Protection but is assigned to the Regional Computer Forensics Laboratory to authenticate the recovered data. The examiner testified that she had compared internet history records from some of the computers seized in the raid to the Facebook records and had verified that they were matches. However, she admitted she could not tell the exact dates the websites in the internet history were accessed (only the month and year) or who accessed them. She also admitted that neither of the computers she was testifying about today belonged to Church and that she had not been questioned by the prosecution about the one she knew belonged to Church.

During cross-examination, defense attorney Molly Armour asked the forensics examiner to verify that there were also photos found in Betterly's account. One photo was of Betterly's young son standing next to a sign with Occupy Ft. Lauderdale's rules, including things such as no drugs or violence. The child was identified in oral arguments between the attorneys outside of the presence of the jury, but not to the jury when the forensics examiner was being cross-examined.

After brief testimony, the state excused the examiner and tried to read the Facebook records aloud to the jury, but the defense quickly objected since that is not the process for getting evidence onto the court record. The prosecution then scrambled to catch the examiner in the hallway as she was preparing to leave the courthouse so they could recall her. Once she was back on the stand, the prosecutors began a laborious process of projecting the transcripts of Facebook conversations and asking her to confirm the sender, receiver, date, and content of each post so the messages could be read aloud to the jury. They did not have enough copies of this document to both project on the screen and show to her directly, so they had to borrow a copy from the defense. After the first transcript was finally read, defense attorney Deutsch asked the judge if they could go through that process in chambers so the jury would not have to sit through that all day. The attorneys then went back into the judge's chambers to do this, emerging more than half an hour later for the prosecutors to start taking turns reading conversations and wall posts to the jury.

While this whole endeavor was clearly the state grasping at straws and trying to get some measure of so-called evidence onto the record, the Facebook posts did reveal some useful information. The state first went over Betterly's records. Throughout the case, the state has repeatedly claimed that he said on Facebook “u cant apologize after throwing a molotov.” They have presented this as a serious comment that showed his intent to commit terrorism. The Facebook record showed “lmao” (“laughing my ass off”) in front of this comment, however, as well as other signs of jokes all throughout the conversation. The state has also said Betterly

posted that he may “catch charges in Chicago” and that this showed his intent to commit criminal activity. This post was part of that same joking conversation.

Betterly's Facebook posts also discuss the video posted of the NATO 3 being harassed and threatened by the Chicago cops in early May 2012. During this incident, they were surrounded by eight cop cars during a traffic stop. Betterly was discussing this video with a friend one day before he was arrested.

The state next went over Church's Facebook records. They read aloud several conversations between Church and friends or family members in which he discussed his outrage over violence being inflicted on innocent people, especially children. He posted several comments about how the injustices in the world had to be corrected and he was going to be part of that. The state, of course, is presenting these posts in an attempt to paint him as a dangerous terrorist instead of a social justice activist. They also displayed photos from his Facebook account to bolster this narrative.

undercover cop "mo" begins testimony admidst repeated defense objections

01.30.2014

Today, undercover Chicago cop Mehmet Uygun, aka “Mo” or “Turk,” took the stand in the trial against the NATO 3: Brent Betterly, Jared Chase and Brian Jacob Church. “Mo” is expected to be the state's final witness in the conspiracy and terrorism case. The state began their case with the other undercover cop, Nadia Chikko (aka “Gloves”). Chikko's testimony was so weak and full of holes that we expected the prosecutors to be desperately trying to salvage their case through Uygun's testimony. Our predictions proved to be true.

On the stand, Chikko had to be continually admonished not to answer the questions she wanted to answer or jump ahead in the narrative she was trying to tell when it was not relevant to the questions she was asked. Uygun came across as better trained and composed than Chikko for the most part, as he answered most questions succinctly. While his performance under cross-examination is yet to be seen, the defense objected throughout the day to his continual use of “they” to lump all the defendants together rather than saying who he saw do what or heard say what during any specific interaction. For example, Betterly was not part of many of the recorded conversations, yet Uygun consistently referred to the three defendants as if they were all present at all times and all doing and saying the same things. The judge had to instruct him several times to be specific in his testimony since there are three people on trial in this case.

The prosecutor asking Uygun questions on the stand did not help matters, as he consistently misread the transcripts of recorded conversations when asking Uygun for his understanding of what the defendants' statements meant. The prosecutor also confused the defendants in his questions several times. In another embarrassing blunder, the prosecutors forgot to bring a box of alleged evidence with them to court, causing one of them to have to leave the courtroom to retrieve the box so they could show Uygun a handheld police scanner that was allegedly seized during the apartment raid but has not been proven to belong to any of the defendants.

Undercover cop Mehmet "Mo" Uygun getting arrested to establish his activist "cred"

The prosecutor also repeatedly asked Uygun about what other activists on the recordings or identified in surveillance photos said and did. The defense objected to this repeatedly because the state was trying to present things that other people said and did as evidence against the defendants. The judge had to remind the prosecutor that there are three, and only three, people on trial in this case.

Throughout the questioning today, the prosecutors were clearly trying to patch up Chikko's weak testimony. At one point during oral arguments before the judge (but outside of the presence of the jury), the prosecutors said Uygun's testimony was needed because Chikko's credibility had been challenged. Thus, they went to pains to ask pointed questions of Mo to patch these holes. For example, one recording captured Uygun saying he would bring a “30 pack” to the apartment some of the defendants were staying in and Chikko testified that she did not know what that was referring to, as it could be beer or chewing gum. Uygun testified that he meant beer but never actually brought beer to the defendants.

The prosecutors also had Uygun step down from the stand to handle the novelty knives, swords, and bow and arrow in front of the jury when verifying that they were the ones that Church had shown him. The defense objected to him brandishing these alleged weapons as being prejudicial against the defendants, but the judge permitted him to handle them. The prosecutors also submitted a photo of Uygun's bulletproof vest because one recording captured Chase saying that arrows could penetrate them. Uygun's vest included a breast plate to protect against punctures.

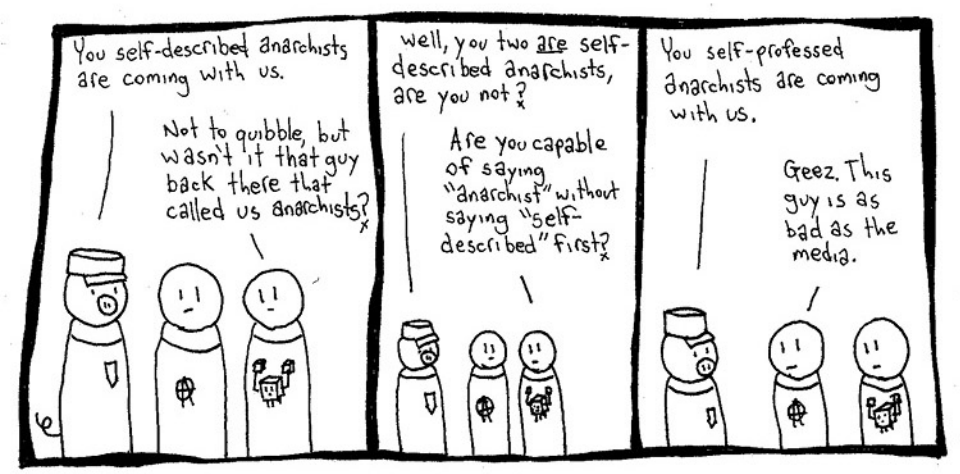
These desperate attempts at smearing the NATO 3 as dangerous terrorists are expected to continue on Monday. A few recordings that have not yet been played for the jury are expected to be played then. After the prosecutors are done asking their questions, the defense attorneys will be able to cross-examine the undercover and tear apart his story like they did when Chikko was on the stand. Once the state rests their case, the defendants will be able to present evidence and witnesses to the jury, if they choose to do so as part of their defense.

recordings reveal undercover cop "mo" helped build molotovs, directed defendants

02.03.2014

Today in the trial of the NATO 3—Brent Betterly, Jared Chase, Brian Jacob Church—undercover Chicago cop Mehmet Uygun (aka “Mo”) continued his testimony and began cross-examination by the defense attorneys. A few audio recordings from the undercovers' wires were also played as Uygun gave more testimony. These recordings largely showed that Uygun, like his partner Nadia Chikko (aka “Gloves”), had instigated

discussions of Molotovs and other explosives, sought materials for making Molotovs, and directed some of the defendants in constructing them on May 16, 2012. Uygun will continue being cross-examined tomorrow and closing arguments in the case could begin as early as Wednesday of this week. Trial resumes tomorrow morning at 10am (everyone must be seated by 9:45am).



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The court proceedings started today with the defense attorneys providing oral arguments on a motion they submitted to the judge this morning. The motion asked for portions of Uygun's testimony from last Thursday to be stricken from the record because he improperly gave his interpretations of the defendants' recorded comments when the audio recordings provided the evidence of their statements. The defense attorneys also argued that Uygun gave his interpretations of entire conversations, not individual words or specific statements that might be open to interpretation. Further, they argued, he added in references to Molotovs and other explosives when the defendants were clearly not talking about them. The prosecutors argued that they had done everything appropriately but would make sure to phrase their questions more specifically if the judge so ordered. The judge ruled that some questions had been inappropriate but overall they were fine, so he would not strike any of the testimony. However, he said he would issue the jury an instruction to remedy the situation, giving the defense attorneys leave to shape the instruction and provide him with their recommendation for it.

Once Uygun resumed testifying, his testimony and the additional audio recordings played continued to show the ways the undercovers had instigated and directed the construction of Molotovs that led up to the defendants getting arrested on conspiracy and terrorism charges. Uygun admitted he had asked for a knife to cut a bandanna into strips and then cut the bandanna, giving the strips to Chase to use as wicks, although he tried to avoid admitting that the strips were for wicks. One recording revealed that he had talked through creating the first Molotov and then told Chase to finish the rest.

Much of Uygun's testimony closely followed Chikko's testimony, although he contradicted her at times. For example, he said they had brought beer to the apartment where Church and Chase had been staying one two occasions and had given some of the defendants beer both times, whereas Chikko first said she had never given them beer and then said she had given Church half a beer one time (he was 20 years old at the time). He also claimed that Chase had discussed making napalm bombs with him as they walked from the gas station back to the apartment, but this conversation was not recorded because his recording device was attached to the backpack he left at the apartment.

Under cross examination, Uygun was forced to admit that he had been the first to bring up the idea of Molotov cocktails the day the NATO 3 were arrested. He also asserted that he was only watching the Molotovs be built, not participating in the process, even though he admitted to cutting the bandanna and going to buy gas. Additionally, he claimed that his statement that he had two dollars for gas and that he and Chase were going to the gas station was not him offering to chip in money for gas. Throughout his testimony, it has

been apparent that his interpretations of his own actions and words in the undercover investigation are just as off base as his professed interpretations of the defendants' actions and words.

Uygun also admitted that Betterly was not present for the vast majority of the conversations and was not a vocal participant in most of the recordings on May 16. Further, he admitted that he had never discussed with Betterly any plans for using Molotovs and that Betterly never handled any of the Molotovs.

When an attorney for Chase was cross-examining him, Uygun went into more detail about his undercover investigative work with the Counter Intelligence Unit, including infiltrating Occupy Chicago meetings and a punk rock show. He denied being on the lookout for anarchists, claiming instead that he was only looking for criminal activity. Nevertheless, a surveillance team photographed Church when the undercovers first met with him on May 2 after meeting him at a Mayday party at an activist center the day before. He also admitted that he had never seen either Church or Chase commit any criminal activity prior to the day they were raided and arrested.

After the jury was dismissed for the day, the judge briefly talked about the schedule for the next few days. Uygun's testimony is expected to be complete around 2pm tomorrow, with the rest of the day to be spent on arguing various legal motions. Closing statements in the trial could begin on Wednesday, after which the jury will begin deliberations.

"let's make these [molotovs] so i can go bomb a f---- bank" undercover cop said, prosecution and defense rest cases

02.04.2014

Today in the trial of the NATO 3—Brent Betterly, Jared Chase, Brian Jacob Church—undercover Chicago cop Mehmet Uygun (aka “Mo”) finished giving testimony and the state rested its case against the defendants. Before resting, the state called its final witness, the bomb technician who handled the Molotovs after the raid and dumped the gasoline in the bottles down the toilet. After the state rested its case, the defense argued that the terrorism charges should be thrown out because the state had not shown evidence to substantiate the charges, but the judge gave a long, pro-American speech and denied the motions. The defense then declared that it was resting its case without calling any witnesses and without any of the defendants testifying on their own behalves.

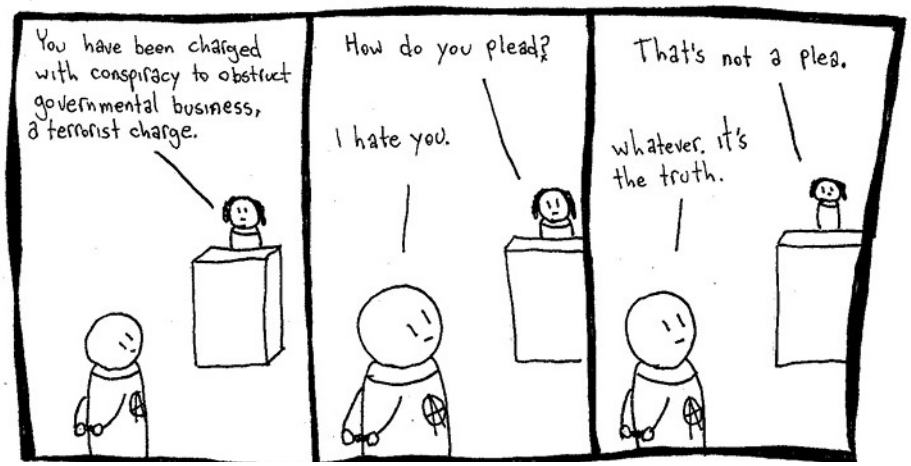
Cross Examination of Undercover Cop “Mo”

During cross examination, Uygun was forced to testify to the full extent to which the undercovers directed the defendants in different ways at different times, particularly on the day of their arrests. Uygun admitted he was the first person to mention Molotovs that day. Additionally, when the undercovers were hanging out with the defendants at the apartment, Uygun was recorded as saying, “Let's make these so I can go bomb a fucking bank” when talking about Molotovs. He also admitted that his partner, Nadia Chikko (aka “Gloves”), was the

only person to ask, “Should we make Molotovs?” From there, the materials for Molotovs were gathered and the bottles were filled with gasoline. This recorded statement was captured during the time period between Conversation 47 and Conversation 48 that the prosecutors played for the jury. That is, the prosecutors intentionally left out this part of the recording, which can be described at a minimum as misleading in the extreme.

Regarding the creation of Molotovs, Uygun was also forced to admit that asked about all the ingredients needed for them: gas, bottles, and wicks. He used one of his black bandannas for the wicks, asking for a knife from someone so he could cut his bandanna (Church provided him with a Swiss army knife). He was also forced to admit that Church said they could not siphon gas from his car and that he stood at the opposite end of the porch when the bottles were being filled with gasoline, only coming nearby when prompted to by questions Uygun asked of him to get him engaged in the process. Further, he admitted that neither Church nor Betterly ever touched the bottles after they had been filled with gasoline. He also admitted that Chase was the only one who ever learned that he had hid the Molotovs in the bathroom, unlike in Church's car as he said he would. Chase asked Uygun to move the Molotovs but he did not do so.

Throughout the cross examination, the defense attorneys tore Uygun's testimony to shreds, asking him about reports the state did not show to the jury that contradicted much of his previous testimony. The attorneys also played snippets from the audio recordings from his and Chikko's recording devices that further revealed contradictions in his testimony and refuted some of the state's claims. Uygun testified about an undercover assignment in March 2012 in which he saw graffiti he believed to be anarchist symbols and followed it down Division Street until he found more graffiti, including a red circle A. He denied, however, that his investigation included looking for anarchists, saying instead that he was only looking for criminal activity. His testimony under cross-examination also revealed a 3-day Department of Homeland Security training he took in the lead-up to the NATO summit, which included information about previous summits like the World Trade Organization and International Monetary Fund. This training also included information on alleged violence by anarchists at these demonstrations.



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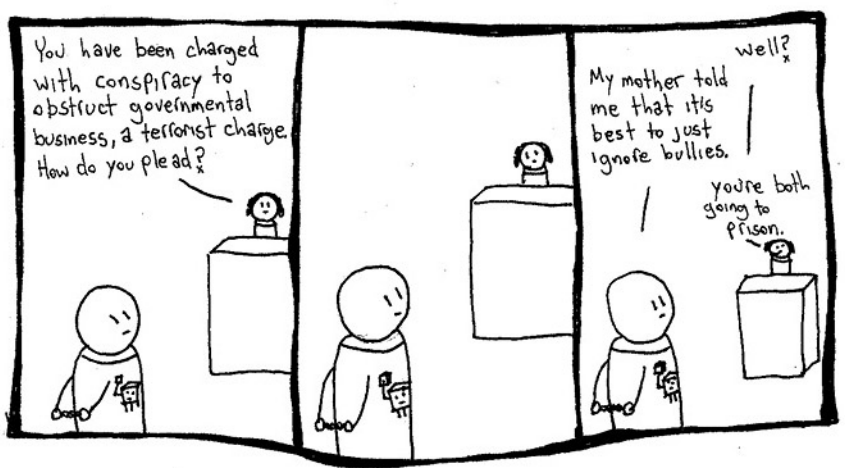
Notably, Uygun's testimony under cross-examination revealed exactly how distorted the state's claims about the defendants are. Uygun admitted that either he or Chikko were the first to talk about Molotovs and other explosives on several occasions, although he continued to assert that he was just going with the conversation to be included, not directing the conversation. He also claimed that several conversations that were clearly joking ones, including lots of laughter audible on the recordings, were actually serious and he took them as such. One conversation included Chase talking about strapping Molotov cocktails to the inside of his trench coat to take to protests, which Uygun claimed he took seriously. In the same conversation, Uygun suggested Chase could wheel a shopping cart full of Molotovs into the protest, but Chase said a potato gun would be better to have. He also admitted that, in the same conversation, neither Church nor Chase had talked about pipe bombs when talking about steel pipes and that he had only assumed that they had been when he testified as such.

Uygun also testified that he wrote Debriefing Notes after each of his undercover assignments and reported anything that seemed to be of a criminal or dangerous nature. However, his reports mostly do not detail what he testified to considering threats from and plans by the defendants. At one point, he said he did not know why he did not report on some things. The prosecutors later asked him if the audio recordings from his undercover wire were part of his reports in an overt attempt to salvage his weakened testimony after he had shown how little weight he had given to some of the defendants' statements when they had been made, in contrast to how much he was saying they meant on the stand.

Much of Uygun's testimony concerned alleged plans by the defendants to create pipe bombs, supposedly for use in an attack on Obama's campaign headquarters in downtown Chicago. This testimony marked a shift in the narrative of the alleged conspiracy away from the Molotovs and to pipe bombs, which came across as a desperate attempt by the state to demonstrate some form of plot to commit terrorism. Under cross examination, Uygun admitted that none of the defendants had ever mentioned pipe bombs during his investigation and he had never written reports about them talking about them. Further, he admitted that the PVC pipe seized during the raid on the apartment where two of them had been staying had been used for shooting off bottle rockets, not for a pipe bomb. He also admitted that his testimony today was the first time he had ever told anyone, including his supervisors, about his thoughts about the defendants wanting to create pipe bombs. Uygun's testimony under cross examination also revealed that he had never investigated whether Church or Chase had followed up on any of the plans for actions they allegedly told the undercovers about, including the ones to attack four police precincts simultaneously and to attack Obama's campaign headquarters.

Additionally, Uygun testified that he had never seen the defendants drunk or stoned, although audio recordings played for him today captured Church saying that he was too drunk to drive and Chikko saying that she would drive. He further contradicted his earlier testimony, as well as Chikko's prior testimony, about how many beers he had given the defendants on how many occasions. At first, he claimed he had only given some of them a beer on one or two occasions, although audio recordings played today showed that he and his partner had given them multiple beers on multiple occasions. He also admitted that he remembered waiting at the apartment with Church before heading to a protest because Church would not leave until he was able to get more marijuana. His testimony also confirmed that he had asked Church at one point if he was high and that he had told him to write a to-do list before he “hit the bowl in the morning” so he would be more productive in creating plans for attacking targets. Unlike his partner, who had claimed that “hitting the bowl” meant going to the bathroom, Uygun admitted that he had been referring to getting high.



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Uygun was also forced to admit under cross-examination that he had not investigated whether Church had ever followed-up on his stated ideas for finding and attacking targets, including four police precincts, Obama's campaign headquarters, and the Mayor's house. Similarly, he was forced to admit that he had never seen any of the defendants commit any criminal act prior to May 16th when they were present for the construction of the Molotovs.

Bomb Technician Testifies

The state's final witness was the bomb technician who handled the Molotovs after the raid. He testified that he had sampled the liquid in the bottles, which was confirmed to be gasoline, and then dumped the gas into the toilet to dispose of it. When asked why he did that, he said that was the safest course of action at the time. The prosecutors also had him read handwritten instructions for building a pipe bomb that was allegedly in “plain view” on the table in the raided apartment. He testified that the instructions would create a functional pipe bomb but that he did not know who had written or read it, as well as that he had only been shown it shortly before trial when the prosecutors were preparing him to testify. The prosecutors also stipulated for the record that the handwriting does not match any of the defendants' handwriting and the document was never tested for fingerprints to see who had handled it. The bomb technician further testified that Molotovs are inherently dangerous and illegal under Illinois law.

Before the testimony about the pipe bomb instructions took place, the defense attorneys had argued that the handwritten instructions should not be shown to the jury at all. The defendants had been forced to give handwriting exemplars because of so-called evidence such as that document, and the results of the handwriting analysis came back negative. Attorney Molly Armour, one of the attorneys for Betterly, argued that the state was trying to get the document and the PVC pipe that the prosecution claimed was meant for a pipe bomb (but that Uygun testified he knew had been used for bottle rockets) in through the backdoor since they had been prevented from doing so before trial began. The judge ruled that the state could admit the document into evidence to be shown to the jury as long as they followed the proper procedures for laying the foundation for it through a witness; the bomb technician was a satisfactory witness for this purpose, the judge ruled over the defense's objections.

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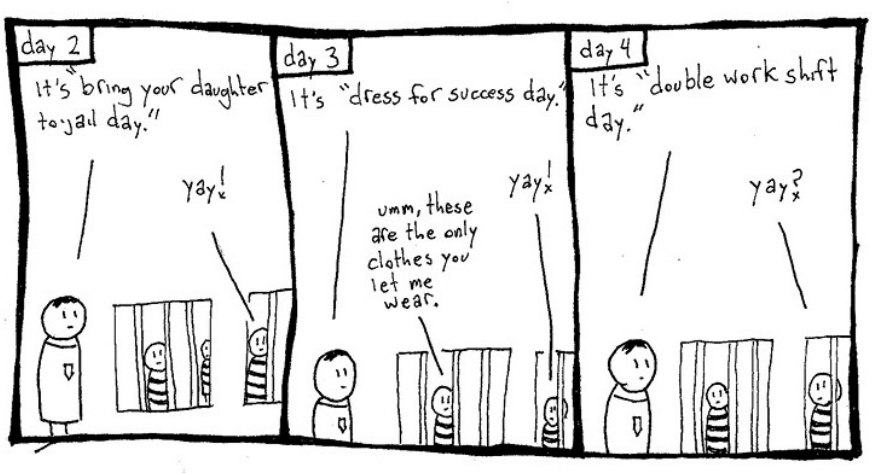
After this witness was excused, the state rested its case against the NATO 3, officially ending this stage of the trial.

Motions for Directed Verdicts of Not Guilty

After the state rested, the defendants launched into their motions for directed verdicts of not guilty for the terrorism charges. Additionally, attorneys for Betterly argued that all the charges against him should be thrown out. A motion for directed verdict is a defense request for the judge to determine that the state has failed to meet its burden of proof on the charged offenses. Basically, the judge was asked to decide whether a reasonable jury member could think that there was enough evidence to even warrant considering whether the prosecution had proved its case beyond a reasonable doubt. However, the judge does not have to decide whether the charges were proven beyond a reasonable doubt.

Michael Deutsch, one of the attorneys for Church, argued that the state had failed to show any evidence of terrorism or that the defendants had the intent to commit terrorism. Tom Durkin, one of Chase's attorneys, argued that he had never understood the state's so-called evidence of terrorism in this case and still did not even after that had presented their case to the jury, so those charges should be thrown out. Armour joined in



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those arguments and further argued that Betterly had never entered any agreement to commit a terrorist act or to do anything with Molotovs.

After listening to the defense arguments and prosecutors' objections, the judge launched into a long, pro-American speech before issuing his ruling. He said that the police are the first line of defense for the millions of citizens and visitors of Chicago, so the image of a police officer on fire would create fear and apprehension in anyone. “That is terror,” he said multiple times. He also said that the backdrop to his entire consideration of the charges against the defendants was the statement, “Chicago will never be the same.” He repeated this statement three times with dramatic effect. He did not mention, however, that this was the same statement allegedly made by Church that the undercover cops and prosecutors had repeated verbatim in police reports, press releases, court documents, pre-trial hearings, and sworn testimony even though there is no audio recording of it. Knowledge of this oft-repeated phrase comes from the undercovers' memories alone, as they both testified to under cross examination.

The judge denied the motions for directed verdicts, specifying that he was not deciding that the charges had been proven beyond a reasonable doubt and that this was up to the jury to decide. The defense then started to re-assert its constitutionality challenge to the terrorism counts, although the attorneys quickly conferred and decided to reserve this challenge for a post-trial motion since the civil liberties issues in the case are so stark and severe. This challenge was first raised in early 2013 when the defense challenged the Illinois terrorism statutes as unconstitutional both as written (i.e., “on its face”) and as applied to the NATO 3 in this case. The judge ruled that the statutes are constitutional, saying that they are not overly broad or vague and that they do not encroach on activity protected by the First Amendment. He did not rule on the as-applied challenge since he had not been shown enough evidence in the case to make a determination, thereby giving the defense the ability to re-assert this challenge after the state presented its case against the defendants at trial.

Defense Rests

After these arguments, the defense declared that it was resting its case without calling any witnesses and without the defendants testifying in their own defense. The defendants are not required to present any witnesses or evidence to counter the state's allegations against them, and they all chose not to do so. When the judge asked them each whether they wanted to testify on their own behalves, they each said no. Betterly confidently remarked, “I don't believe it will be necessary.” With the defense resting, the next stage of trial will be the closing arguments. These are scheduled for 10am on Thursday.

jury instructions finalized, closing arguments set to begin

02.05.2014

The jury instructions for the charges against the NATO 3—Brent Betterly, Jared Chase, Brian Jacob Church—were finalized in court at the end of yesterday's proceedings and throughout the day today. Additionally, the defense argued a motion to strike portions of undercover cop Mehmet Uygun's testimony as being improper. The judge denied this motion, which concluded arguments over the final issue before closing arguments tomorrow morning at 10am (court will be in session starting at 9:30am, so all spectators must be seated by 9:15am).

Jury Instructions

The process of creating jury instructions began before jury selection ever began in an attempt to streamline the process. Due to the many complicated legal issues involved in the case, which is both the first use of several Illinois terrorism charges and a joint trial for three defendants, this process was far from smooth or quick. By this afternoon, however, all the issues had been ruled on and the instructions that will be given to the jury had been hammered out. The jury will deliberate on each defendant's guilt or innocence on each of the seven charges they are facing and will return their verdicts once they have reached their conclusions. The jury will start deliberating after both sides present their closing arguments tomorrow.

Only the instructions that one side or the other objected to were discussed on the record, so we do not know the exact number of jury instructions or what each one says. There were several important issues discussed on the record, however. Many of these arguments became tense and heated, particularly on Tuesday night as the hours wore on and everyone became increasingly exhausted. Court was not recessed until nearly 10pm that night, so everyone was frazzled by the end.

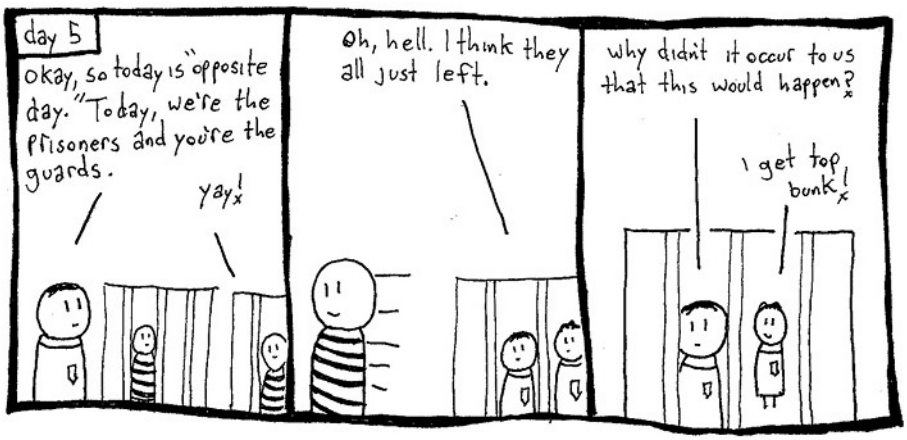
One of the most significant defense objections was to the way the terrorism charges were being presented in the jury instructions. The issue was whether the terrorism statute itself is a crime of intent since the statute says that someone is guilty of terrorism when they commit an illegal act that is intended to “intimidate or coerce a significant portion of the civilian population.” Michael Deutsch, one of the attorneys for Church, argued that the judge was wrong in his interpretation of the terrorism charge and was providing improper instructions to the jury. The judge said that he had made his ruling and he was right today, so the lawyers could appeal if they desired. Deutsch replied, “You're wrong today and you'll be wrong tomorrow.” The judge then said that if he heard any more protestations that they would be addressing them in contempt of court proceedings. Deutsch started to reply but was shouted down by the judge.

Another important issue was about whether lesser-included charges should be presented to the jury as they deliberate on the defendants' guilt or innocence of the charges tried in court. Lesser-included charges are lower-level crimes (e.g., misdemeanors instead of felonies) that have the same elements as the higher-level crimes but are not considered to be as severe and do not have the same classification or penalties. Juries can be instructed that they can convict on these lower-level crimes if they feel there was evidence proven beyond a reasonable doubt on these offenses but not the ones charged and tried.

The prosecution argued that no lesser-included offenses should be included because the jury should only have

to decide guilt based on the charges the grand jury had issued and the State's Attorneys had decided to pursue. Inserting lesser-included charges would take power away from the grand jury and prosecutors, they argued. The defense argued that justice required that these lesser-included offenses be presented to the jury.

There were two lesser-included charges proposed by the defense. The first was the offense of “possession of an incendiary device with the intent to commit criminal damage to property” instead of “possession of an incendiary device with the intent to commit arson.” The second was “mob action” instead of “conspiracy to commit terrorism” and “material support for terrorism.” After much argument and additional research, the judge ruled that that “intent to commit criminal damage to property” offense would be the same level as the original felony charge, so that request was denied over defense objections. However, he ruled that some sections of the “mob action” offense were appropriate to replace the terrorism charges, so he allowed those over prosecution objections. The mob action charges included in the instruction are all Class C misdemeanors rather than felonies like the charged offenses. A major debate with this charge was whether the statute was still unconstitutional, as it had been found to be in 2000, but the judge ruled that it had been modified by the Legislature and should thus be considered constitutional.



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The defense also argued that the state should be bound to its charge of “possession *and* manufacture” of incendiary devices, which they had stated in both the indictment and the Bill of Particulars providing more information about the indictment. The state had proposed an instruction about “possession *or* manufacture” of incendiary devices for jury deliberations. The prosecutors argued that the custom was to charge with “and” when that was in the statute, as was the case with the charges against the NATO 3, and to instruct the jury on “or” so they would know that proof beyond a reasonable doubt on any of the elements of the offense was sufficient to convict. The judge agreed with the prosecution based on precedents set in Illinois through other cases.

The state also had several instructions to which they were objecting. Significantly, they argued that the defense had been using “soft entrapment” language and arguments throughout the trial. Prosecutors claimed the defense attorneys had danced around the word “entrapment” in their opening arguments, using every word except for that to describe the undercovers' actions and statements. Further, they argued, the defense attorneys' questions during cross examination were intended to cause the jury to infer entrapment. Thus, the jury should be instructed that the defendants would have to admit guilt to every element of each charged offense to claim an entrapment defense, the prosecutors argued. They advanced this argument even though the defense had just rested their case without presenting any formal defense against the charges. Nevertheless, the judge agreed with the prosecution's claims of “soft entrapment” and said that if they continued in their closing arguments as they had been thus far, he would provide the jury with the state's instruction about entrapment.

Another major argument by the state concerned the instruction to the jury about First Amendment issues. During trial, the prosecutors had filed a motion complaining that the defense had violated the judge's order not

to talk about violations of First Amendment rights or to raise questions about why the case was being prosecuted at the state level rather than the federal level, like the vast majority of terrorism charges. At that time, the judge had sided with the state and allowed them to write a curative instruction to the jury. The state proposed their instruction and the judge modified it a bit before approving it to be given to the jury.

Additionally, some instructions were worked out in case the jury asks questions about those issues. One such issue was the definition of “Molotov cocktail,” which the prosecution argued was inherently dangerous to human life and explicitly illegal under Illinois law. The defense argued that the state's instruction was prejudicial against the defendants. The judge ruled that the state's instruction would be used. Another such instruction that was worked out prior to trial was the definition of “civilian.” Despite defense objections and the cases they presented to the judge, he ruled that cops are considered “civilians”; in fact, everyone is unless they are active duty members of the military or National Guard.

Defense Motion to Strike Portions of Undercover Cop Uygun's Testimony

Tom Durkin and Joshua Herman, attorneys for Chase, filed a motion that the other defendants joined in on to request that portions of undercover cop Uygun's testimony be stricken from the record. Some of his testimony was improper because he had interjected his own understandings of what the defendants had meant by their recorded statements, thereby adding information that was not supported by the evidence in the case (namely, the audio recordings). The prosecution objected and the judge said that some of the questions and answers had been improper, but not to such an extent that the defendants had been harmed. Thus, the judge denied the motion and said that the testimony would stand. In response, Durkin said he was requesting a mistrial, which the judge also quickly denied.

nato 3 trial concludes, jury begins deliberating our comrades' fates

02.06.2014

The closing arguments in the NATO 3 trial concluded today and the jury began deliberations to determine whether each of them will be convicted or acquitted on each of the seven charges they are facing. The jury was released for the evening at about 11pm and is scheduled to return at 9am tomorrow to continue deliberations. They must keep deliberating until they reach a verdict.

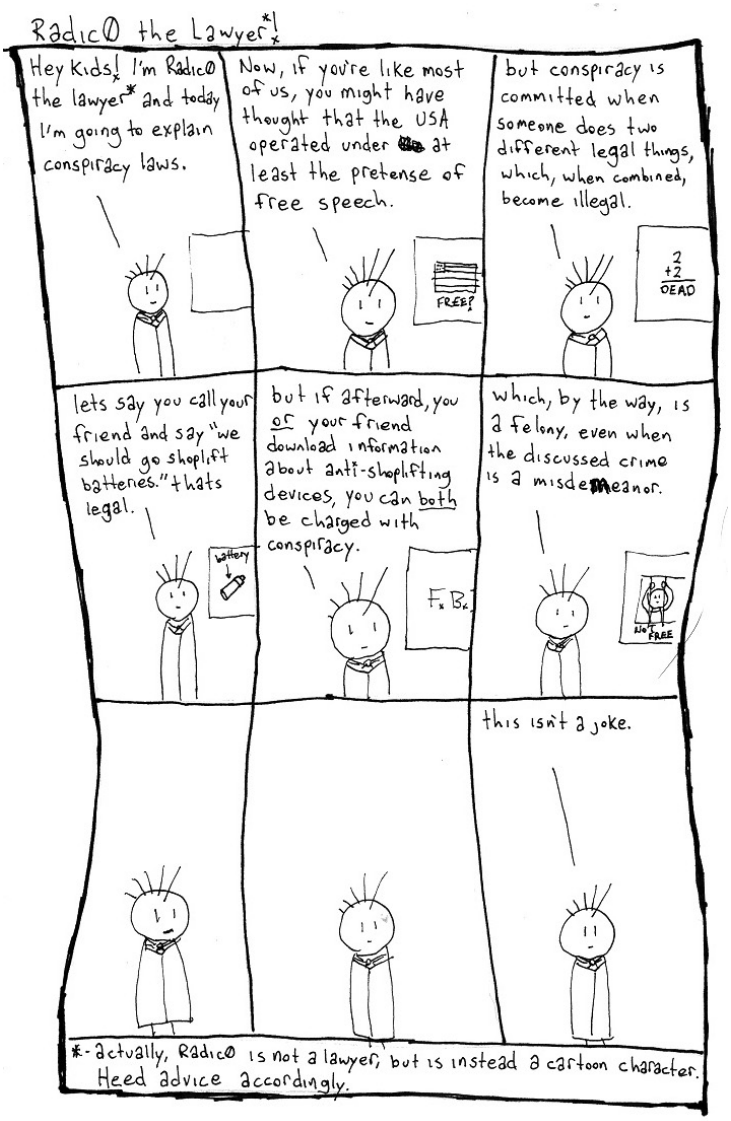
Brent, Jared, and Brian looked focused and determined in court today, although they must have been stressed and exhausted beyond all belief. We will keep you updated on how they are doing as we hear more from them. Below are our in-depth notes on the closing arguments.

At this point, we have no idea how long deliberations will last or what the verdict is likely to be. Thus, we have no idea whether to brace ourselves for long-term prisoner support or to start organizing our long-awaited victory party! While we wait, please send the NATO 3 a note to let them know that they are not alone in this ordeal!

State's Closing Arguments

The prosecutor began the state's closing argument with the quote repeatedly attributed to Church that the undercovers insist he said even though it was not recorded: “After NATO, the city will never be the same.” He also claimed, “by attacking the police, they were attacking all of us.” This claim was supported by a slideshow the prosecution had created to illustrate their narrative of the case. According to this narrative, Betterly knew of Church's plan to attack police precincts when the undercovers first met him in May 2012. [No evidence or testimony was presented during trial that Betterly ever knew about the alleged plan to attack police precincts. -ed.] In contrast, another protester heard on some of the audio recordings was not included in Church's plan for attacking the precincts because he was a real protester, whereas the NATO 3 wanted to create and use Molotovs. To that end, Chase and Church tested the undercovers in a meeting on May 6, 2012. The defendants decided to accelerate their plans after the undercovers passed this test.

The prosecutor then showed the jury the picture of handwritten instructions for making a pipe bomb that had allegedly been recovered during the house raid. Use your common sense because the defendants clearly wanted to attack the police, he told the jurors. [At trial, the handwriting samples the defendants were compelled to give proved that none of them had written the instructions. The state could also not prove that any of them had read the instructions. -ed.] The defendants also wanted to attack Obama's campaign headquarters because he was not doing anything about violent police officers, the prosecutor claimed. Further, the defendants had a police scanner because they considered themselves to be at war with the police and thus wanted to hear what they were saying. Additionally, the GPS tracking device placed on Church's car shows that the defendants were casing targets in downtown Chicago. [At trial, the GPS expert admitted the device's data did not show who was in the car or why the car was moving. He also asserted that he did not believe the defendants were looking for free parking downtown near the Occupy Chicago encampment, which could explain the car's movements that day. -ed.]



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To further prove the defendant's guilt, the prosecutor claimed they were constantly talking about bombs because they wanted to get on the front page of the newspaper. He also claimed that Church had not gone to the gas station with Chase to purchase gasoline for the Molotovs because he had been there the day before and the manager would not sell him gas since he was trying to fill up a milk jug. [At trial, the former gas station manager admitted that he had never told anyone about Church trying to buy gas the day before they were arrested until he was preparing for trial—20 months from the date of his first interview with the police and prosecutor. He also

admitted that he lies in online forums in order to get attention. -ed.]

The prosecutor then walked the jury through the elements of the crimes the defendants are charged with to show them how they are all guilty of all charges. The words of one of the defendants can be used against the others because conspiracy means each is accountable for whatever anyone else does, the prosecutor asserted. Just in case this point was not sufficiently clear to the jurors, the prosecutor raised his voice and asked, "Would any of you have gone to work the next day if any of their plans had succeeded? Would you have sent your kids to school?" An important element of the terrorism charges is the intent to commit terrorism, which all three defendants clearly had, he argued. Betterly's comments on Facebook in April, for example, show his intent to commit terrorism. He accompanied these arguments with photos of the NATO 3 masked up at protests. Further, since an act in furtherance of the conspiracy is needed to find guilt, the jury should consider acts such as the defendants driving by Obama's campaign headquarters and buying gas. Since there is a conspiracy charge, if one of the defendants did an act in furtherance of the conspiracy, they are all guilty. In fact, the prosecutor argued, they all did acts, so they are definitely all guilty.

Next, the prosecutor walked through the elements of the material support for terrorism charge. Currency or other financial securities are needed for this charge, which the prosecutor argued is satisfied by the defendants buying gas for their road trip to Chicago and for the Molotovs, as well as by Church providing his car for their trip. Another element of this charge is training, which is satisfied by the defendants training in de-arrest tactics since this shows their desire to fight police, be at war with them, and target them. Another element, personnel, is satisfied by Church recruiting other activists and providing expert assistance when making the Molotovs.

For the possession of an incendiary device with the intent to commit terrorism, the prosecutor argued that all three defendants had the intent to commit terrorism, which proves that they had possession of the Molotovs with the intent to commit terrorism. Additionally, under this law, the defendants are guilty of this charge because they had control over some pieces of the Molotovs, even if they had never touched them. Their belief that they possessed these weapons is further supported by Church and Betterly driving to Indiana to pick up one of Betterly's friends because they thought the Molotovs were in the car trunk.

Additionally, all three defendants are guilty of the possession of an incendiary device with the intent to commit arson charge because they intended to burn a building down. They are also all guilty of solicitation to commit arson because they asked others for the materials needed to create Molotovs. Just in case the jury had any lingering doubts about the defendants' guilt, the prosecutor told them about the law of responsibility. This law says that if you see a crime being committed and you help it along or try to, then you are guilty of that crime.

For the rousing conclusion, the prosecutor reiterated that Church's comment that Chicago will never be the same shows his intent to commit terrorism, and thus all three defendants are guilty. Further, he told the jury, if you believe Chase constructed the Molotovs with the intent to commit terrorism, then all three of them are guilty of that charge, not the lesser-included mob action charge. The slideshow cued up photos of the defendants masked up with the alleged quote by Church: "The city doesn't know what it's in for and after

NATO the city will never be the same.” These men are terrorists, the prosecutor said, and they came to the city to commit terrorism.

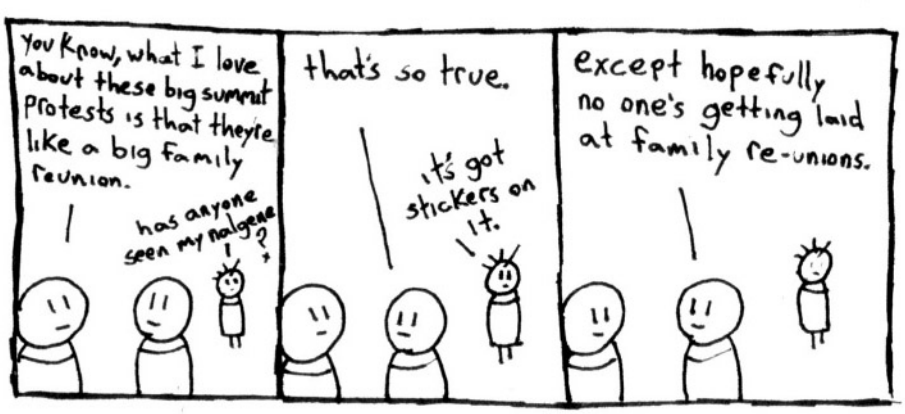
Brian Jacob Church's Closing Arguments

Michael Deutsch of the People's Law Office, one of the attorneys for Church, gave the closing argument for Church. He started off by thanking the jury for coming everyday and listening to the trial. He also told the jury that independent people like them, who are not tied to the narrative of terrorism, are needed to judge the facts in the case. Additionally, there are three important principles for the jury to consider: the defendants have the presumption of innocence, the state must prove their case, and the jurors must not have any reasonable doubt in their minds about the defendants' guilt.

The prosecutors bringing terrorism charges in this case without credible evidence diminishes the seriousness of terrorism, disrespects victims of real terrorism, and trivializes real investigations into terrorism. The state of Illinois passed terrorism laws with high standards to be met to find someone guilty of terrorism. Thus, the jury has to find that the defendants intended to commit a terrorist act and had the intent to intimidate or coerce a significant portion of the civilian population. This law was written that way so that cases like this would not be brought, Deutsch argued. He also reminded them that they have to find that the defendants had an agreement to commit terrorism in order to find them guilty on all four terrorism charges. “I submit to you that the evidence in this case doesn't even come close to that,” Deutsch argued.

Regarding intent, he argued that the defendants had the intent to talk, to impress the undercover cops since they were older, and to present themselves as experienced protesters. In contrast, the state had tried to bootstrap a joking conversation about Chase bringing Molotovs to a protest into their case against the defendants. In reality, the defendants did not do anything, create any plans, or make any progress until the undercovers raised the idea of Molotovs on May 16, 2012 because they needed results to satisfy their superiors.

This case is about intent, Deutsch argued. As such, the jury needs to consider all the evidence in the case to decide the intent. The undercovers clearly had the intent to encourage the defendants to take illegal action. The jury also has to decide the credibility of the undercovers as they evaluate the evidence in the case. He reminded the jury that there are no recordings of any of Church's alleged plans to support the state's claims. Further, each undercover's testimony had been contradicted by the recordings and by the other's testimony. For example, Uygun had brought up the issue of pipe bombs for the first time on the stand, showing that it was easy for the undercovers to continue to lie in court as they had during the undercover operation.



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Regarding the undercover investigation, the cops had seized Church's computer but presented no evidence from it. They also had lots of surveillance but no photos of illegal acts. “Why didn't the undercovers ever do reconnaissance with Church? What's going on here?” he asked. The truth is that Church wanted to be in the mix and impress others, so he contradicted himself

and made stuff up. He also made excuses and apologized to the undercovers for not doing anything. He did not want to do anything; he just wanted to talk big. So when something happened on May 16, he put himself on the other side of the porch from where the Molotovs were being created. He also made excuses for why he could not participate, such as by saying he could not reach bottles, leading Chikko to grab them, and saying they could not use the gas from his car because he had paid for it himself.

On May 16, Deutsch argued, the undercovers realized they did not have anything to show from their investigation and they had to get the defendants to do something, so they proposed Molotov cocktails. The undercovers directed Church, they were not just going with the flow. Also, Uygun put the Molotovs in the apartment to make sure they were there for the raid. After the Molotovs had been created, Church told Chikko she could throw them against stones down by a nearby pond but he was too cold and tired to go. Thus, he clearly had no intent to commit terrorism. He also brought his weapons to town because of his adolescent fetishization of them, not because he intended to commit terrorism. Those weapons were legal, Deutsch asserted, not instruments of terrorism, just as the firecrackers allegedly recovered were tiny, not instruments of terrorism.

Deutsch said that the lesser-included mob action charge may be an appropriate charge, but the state charged terrorism because they wanted to justify the NATO summit security expenditures. For the jury, finding Church not guilty does not mean that they agree with him but is a way of honoring the legal system and not trivializing terrorism.

Brent Betterly's Closing Arguments

Brent at an Occupy DC protest

Molly Armour, one of the attorneys for Betterly, gave his closing argument. She started off by thanking the jury for giving up time with family to be part of the justice system. She also asserted that she is confident the state had not met its burden of proving beyond a reasonable doubt that Betterly is guilty of the charged offenses. She then showed the jury photos of Betterly at protests to illustrate who he is and what his intent was on the night of May 16. Betterly was part of the Occupy movement in various cities, she said, and he believed he was spreading a message of social and economic justice. While he was part of peaceful protests, he talked about them in grand ways and, while he started some trouble, it was all peaceful civil disobedience. For him, “riot” meant a large and rowdy protest, not what the prosecution claimed it meant to him. Also, he had been threatened by cops because he was a protester and these experiences affected him.

Armour also clarified for the jury that a statement made by one of the defendants *may* be used against the others, but they must decide if it *should* be. As such, they have to weigh the credibility and seriousness of the statement. Church and Chase are not credible, she said. They exaggerate. Many people exaggerate and lie, of course, like the gas station manager and undercovers did on the stand. The prosecution only showed the jury the defendants' comments out of their original joking context. For example, the Facebook content has “riot” in it but also “lol” and “lmao.” Additionally, Betterly had food stamps because he was an unemployed electrician; they were not material support for terrorism.

The cops had “violent anarchist” goggles on and that is all they saw; that is how they saw the defendants when they first met. The undercovers did not meet Betterly until May 3, and information in Chikko's affidavit about the recordings only said that he had traveled from Florida to Chicago. In fact, the undercovers only ever saw him around the time of protests because that is why he had come to Chicago.

Even so, the cops had those goggles on. On May 16, Uygun was the first to mention Molotovs, but he said Betterly had been the first when he said “boom” after Chase talked about throwing a brick. Chikko also admitted that Betterly was not in the apartment when she got the bottles down from a high shelf to make Molotovs. Further, Uygun said Betterly was on the porch when the Molotovs were made, but he is not on most of the recordings. When he was on the recording, he said “it smells like gas” inside the apartment three times—even though Uygun said he was only inside for two seconds. This testimony is not credible at all, Armour argued. Uygun also claimed that the gas fumes were so strong that he had to back away but that Betterly sat right by the puddle of gas and said nothing the whole time. Additionally, the state's audio technician testified that background sounds show a lot about what was happening at the time, yet there are no sounds of Betterly moving past the recording device to go inside the apartment—because he was already inside. The recordings also did not capture Uygun trying to involve Betterly in making the Molotovs, as he had done with Chase and Church—because he was not on the porch when they were being made.

The undercovers' testimony was not honest or credible, Armour argued, and that is reasonable doubt. Chikko testified that Betterly was in and out of the apartment, but Uygun said he was only inside for two seconds. Yet there are no photos of anything to prove who is right. Why are there not any photos, she asked. Moreover, when she testified for the state, Chikko recalled every detail of the investigation, but she had amnesia when she was cross-examined. Another thing for the jury to consider is that a Molotov is nothing without a wick, and Uygun admitted he cut his bandanna for wicks. Yet he claimed he was not participating in making the Molotovs. The undercovers' testimony is not credible at all.

During their testimony, both undercovers admitted Betterly never discussed plans for the Molotovs. Betterly clearly had no intent to commit terrorism; he was just talking big. The prosecution also told the jury all sorts of things that they would prove about Betterly, but they lumped all the defendants together and did not show evidence against Betterly. The prosecutors also said Betterly gave expert advice about making Molotovs, but his advice was not taken, as the bomb technician's testimony showed.

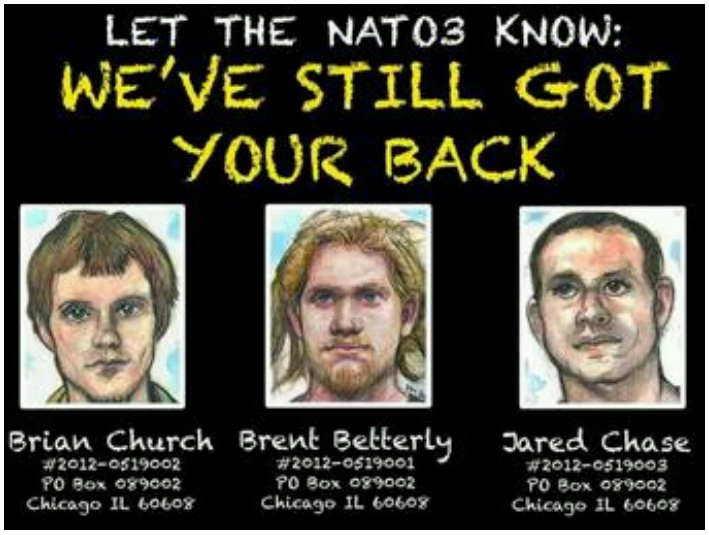
There is a natural explanation for everything the prosecutors showed as incriminating evidence, which amounts to reasonable doubt. Armour told the jury that the prosecutors want them to take everything in the worst light and find guilt, but there is no evidence to substantiate the charges. The truth is that Betterly never had the intent to commit arson or terrorism.

She also told the jury that they would be receiving an instruction about “mere presence,” which she argued will be key when finding Betterly not guilty because mere presence is not sufficient for a conviction if the

person does not have the intent to commit a crime. Further, the defendants never had possession of the Molotovs, as only Uygun did. There is no evidence of Betterly manufacturing the Molotovs either. Additionally, the accountability instruction the jury would receive shows that intent is necessary, but there is no evidence of intent.

The case against Betterly was built on scant evidence and false testimony, Armour argued. The jury should be outraged. The prosecution did not meet its burden of proof. This important principle protects us from tyranny, and she is confident the jury will find Betterly not guilty.

Jared Chase's Closing Arguments



Tom Durkin, one of the attorneys for Chase, gave the closing argument for Chase. He began by reminding the jury that he had told them during his opening remarks that, at the end of the trial, either the prosecution or the defense would be wrong. He believes the jury will agree with him that if the defendants are terrorists, then we can all sleep at night. “I also stand by saying the defendants are goofs,” he said. “The state was wrong to charge them with terrorism. I care a lot about who is labeled a terrorist and if these guys can be called that, we're all in trouble. Can you allow any prosecutor to convict on flimsy evidence?”

Durkin also argued that the prosecutors flip flop on what are the alleged weapons in the case. For example, the so-called shield would be Exhibit A in a reasonable doubt case, but not a terrorism case. As the NATO summit was a virtual armed camp for the weekend and there were thousands of cops in the streets, there is no way beer bottles could be used to intimidate or coerce a significant portion of the civilian population. Rather, these claims show how desperate the state is to get a terrorism conviction. He then held up a small slingshot, mockingly calling it a weapon of mass destruction, and then a PVC pipe used for shooting off bottle rockets. He also reminded the jury that they had heard evidence of cops stopping the defendants and threatening to crack skulls with billy clubs at the NATO summit.

Further, the state has the burden to show that the defendants had the intent to commit terrorism, not just to do something illegal. The prosecutors cannot prove this intent, he argued. If the conspiracy really started in April 2012 in Florida, why could the defendants not get anything done? If the jury can draw two inferences from the facts, then that is reasonable doubt and they must acquit.

The defendants are not sympathetic characters, Durkin said, but the jury must be sure not to be prejudiced against them because of any fear of terrorism. The prosecutors were trying to play on these fears. Why did the prosecutors take a long-distance photo of the Chase Bank, he asked. “Does it remind you of anything?” he asked the jury. “Everyone remembers 9/11,” he said. Similarly, for the photo of the Multi Kulti activist center, was it necessary to see skyscrapers downtown from the fire escape to show where the center was?

Regarding some of the other evidence presented, the so-called de-arrest training only lasted three minutes. “Is that military style training for terrorists?” he asked. He also argued that the defendants being on the front page of the newspaper at the Mayday march is not evidence of their intent to intimidate or coerce a significant

portion of the civilian population. And the only reason they are on the front page now is because the prosecutors made this a big case. Concerning the GPS tracking evidence, it is a leap to conclude that the data shows that the defendants were casing targets because they were clearly going to the Occupy Chicago encampment. The GPS evidence backfires on the prosecution because there is another, more feasible interpretation of the data, which creates reasonable doubt.

Durkin also remarked that the prosecutor had asked the jury what would have happened if the defendants had been successful. Perhaps the question should have been, “Isn't it amazing that the Chicago Police Department found the only terrorists?” He also said that he thinks it is improper to put weak evidence into a trial and to overcharge a case. There is not a shred of evidence that the defendants could have gotten anywhere near Obama's campaign headquarters, so it is ridiculous to say there would have been a pipe bomb attack. He asked the jury, “Are you kidding me that these three guys could terrorize Chicago? Aren't we bigger than that?” He also said that, to have a great America, the jury has to convict only when there is no reasonable doubt; they cannot confuse what terrorism is when deciding their verdict.

Further, he argued that they could tell the case is weak because the prosecutor was not giving them all the evidence due to their fear that the whole story would hurt their case. The undercovers repeatedly said they were not looking for anarchists, but the evidence shows they were. Why not admit it? A reasonable inference from the evidence presented is that the terrorism charge is helpful for justifying the NATO summit expenditures. He then told the jury that he trusts them not to be prejudiced against the defendants and not to give in to the fear of terrorism after 9/11. Reading a quote to them about applying the law to their enemies, he reminded the jury that their job is to apply the law without prejudice. To finish his closing argument, he told the jury about the Sacco and Vanzetti trial from the early 20th Century, in which anarchists were wrongfully executed. He asked the jury not to make that mistake with these defendants.

Arguments about Jury Instructions

After the defendants' closing arguments, there were some oral arguments about how the jury would be instructed to evaluate the evidence in the case and to consider the points of law when issuing their verdict.

The prosecutors first asked the judge for permission to address the War on Terror since the defense talked about it in their closing arguments. In response, the defense said their pre-trial motion regarding the War on Terror was about not admitting evidence of terrorism cases into the trial, not into the closing arguments, so this is a non-issue.

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The prosecutors also requested an entrapment instruction for Betterly based on his closing arguments. His lawyers objected, saying they made arguments about the cops' behavior, not about entrapment. For example, the defense attorneys said, Uygun admitted he helped make the Molotovs by cutting wicks for them even though he first denied that he had helped, so their argument was about his credibility. The judge then ruled that the entrapment instruction will be

applied to each of the defendants, but that the state cannot assert that Betterly was arguing entrapment, only that the other two were.

In response, Durkin argued that the entrapment instruction should not be applied to Chase, as he did not go near that argument in his closing. The judge then told the state to tell the jury about the improper entrapment defense in generalities, not specifying which defendant did so in which ways. He also said that he will read the entrapment instruction, so the prosecutors should focus on describing the facts of the case that they believe show that there was not entrapment. The prosecutors then said that they do not want to do that at all, just address the “soft entrapment” defense instruction so the jury understands that using an entrapment defense means admitting guilt to the charged offenses.

The prosecutors next asked the judge to reconsider the mob action lesser-included offense for Betterly because his closing said he had no intent to do anything illegal, but a lesser-included charge cannot be included if it is counter to the defense theory of the case. In response, Armour asserted that she had said that Betterly knew he could get arrested for civil disobedience, so she was not arguing that he had no intent to do anything illegal at all, but that this does not mean he has to admit guilt to the lesser-included charge. The judge then denied the prosecutors' motion to reconsider giving the jury the option of convicting on the mob action charges, so that option would be given to the jury for each of the defendants.

Next, the prosecutors requested a jury instruction that would state that Molotovs are inherently dangerous, as the defense for Betterly called them “hijinks.” In response, Armour said that “hijinks” referred to the intent of the Molotovs not being to harm people or commit terrorism. The judge ruled that Molotovs are inherently dangerous as a matter of law but that he would only instruct the jury on the legal definition of an incendiary device if they asked.

Finally, the prosecution argued that the description of possession given to the jury during Betterly's closing arguments was an inaccurate representation of the law and that they jury should be given a proper instruction on the law. The judge agreed and said they would be given an instruction.

State's Rebuttal Arguments

The prosecutor began the state's rebuttal argument with, “Are you ready to see a police officer on fire?” That is why the city would never be the same, he argued. Demonstrating his dramatic flair yet again, he raised his voice to emphasize, “How dare they crouch behind the legacy of non-violent protest?” He then mentioned famous figures including Martin Luther King, Jr., Gandhi, and Mother Teresa. After giving each of the defendants nicknames (e.g., Captain Molotov), he said the question is whether they came to Chicago to terrorize the city. He claimed that the defendants are guilty of all the charges because their intent is clear; there is nothing random or funny about this case. The defendants wanted to create images and spread them across the city, that is why this is a terrorism case. They also said they wanted more than protests. They drove for days to get to the NATO summit. They did not have to come to Chicago to commit violence, but they wanted to terrorize the city.

They wanted to burn down symbols of the economic system, such as banks. “That's what Molotovs are for—burning things down,” he argued. They did not burn anything down because the cops caught them. When they decided to attack symbols of the economic system, cops would have been the first to respond, so that is why they are the perfect symbol to attack. “A cop on fire would terrorize anyone,” he argued. Additionally, the defendants could have blown up pipe bombs at Obama's campaign HQ to get in the news, so it is bizarre for the defense attorneys to suggest otherwise. The defendants had chosen Chicago to send a twisted wake-up call for their violent anarchist revolution. Politics is not the issue, violence is, he argued.

If the defense presents a theory of the case, he told the jury, they can examine it. One theory is that the defendants never did anything. They did not do anything because they were caught, he re-asserted. Additionally, the case is about intent and the defendants intended to commit terrorism. Conspirators do not have to be successful to be guilty, as intent is guilt. Similarly, he argued, this case is about preparation and intention, not execution. That is why the defendants were charged with conspiracy and material support for terrorism.

The prosecutor also argued that the undercovers testified credibly. They know drunk people and know that the defendants were not drunk. Additionally, they were only drinking beer, not hard liquor. There is no evidence of defendants binge drinking and the cops barely gave them any. Thus, their drinking casually while plotting violence is not exonerating evidence. Their drinking had nothing to do with their conspiracy and did not prevent them from recruiting others or conducting reconnaissance.

Regarding entrapment, the prosecutor argued that the defense of entrapment is not available to a defendant who denies the commission of a crime and that there was not entrapment if the defendant was predisposed to commit the crime. He then argued that the defendants had planned in Florida to riot in Chicago. “How did the cops get them to do this before they met them?” he asked. “The cops didn't target them, they reached out to the cops.” Additionally, the cops were not present when the defendants built the shield and mortar, or when they used explosives in the past. Thus, the cops could not have entrapped them.

Further, all of the defendants participated in creating the Molotovs. The defense is wrong about the possession law, he argued. Possession can be direct or through another person. The tapes also show that the defendants took independent action to create the Molotovs, so the cops asking about them does not excuse the defendants from personal responsibility. Similarly, the cops had to talk about explosives so they would fit in with the defendants and not be pushed away. This was necessary so they could protect the city like we all want them to, he argued.

Much more than mob action happened in this case, the prosecutor argued. The defendants are guilty of all the offenses charged and tried. While the defense called the defendants' statements jokes and blowing off steam, they are taking the statements out of context. Further, the First Amendment is alive and well in this case, he claimed. “As an American,” he said, “you can speak your mind and even have hatred, but when that spills over to plans, that's crossing the line.” He finished by asking the jury to convict on all seven counts.

VERDICT

nato 3 not guilty of terrorism! convicted of possession of incendiary device charges and facing 30 years

02.07.2014

On Friday, February 7, 2014, the jury in the NATO 3 trial returned its verdicts against Brent Betterly, Jared Chase, and Brian Jacob Church. These three had been held in Cook County Jail in Chicago since they were arrested on May 16, 2012. They faced trumped up, politically motivated terrorism, conspiracy, and arson charges because of their perceived politics and political activities (mostly through the Occupy movement).

The cops and prosecutors had demonized them from the beginning as violent anarchists and domestic terrorists who needed to be locked away for decades because of their nefarious intents to terrorize the city of Chicago. We knew all along that they had been targeted as part of a broad campaign of state repression against activists, particularly anarchists. We knew all along that they had been singled out to send a message to us all that any dissent will be severely punished, that any step outside of the bounds of the mainstream power structures will be met with fierce consequences.

The jury did not buy the state's lies about our comrades being terrorists. They acquitted the NATO 3 of all the terrorism charges: conspiracy to commit terrorism, material support for terrorism, possession of an incendiary device with the intent to commit terrorism, possession of an incendiary device with the knowledge that someone else intended to commit terrorism. They also acquitted them of the solicitation to commit arson charge.

Yet the jury played its role in the criminal legal system by finding them all guilty of possession of an incendiary device with the intent to commit arson and possession of an incendiary device with the knowledge that another intended to commit arson. They also found them all guilty of mob action, a lower-level crime that was offered to the jury as an alternative to the conspiracy to commit terrorism and material support for terrorism charges. The possession charges carry a maximum sentence of 30 years in prison.

We can celebrate the victory over the state's worst lies and their defeat on their own battlefield, but we must not forget that these three individuals are still being made to pay the price for our resistance. We do not know how long they will continue to be held captive by our enemies, but we do know that we will continue to stand in solidarity with them and fight for their freedom until each of them walk out of the prison gate.

Free the NATO 3!
Free all political prisoners and prisoners of war!
Destroy all prisons!
Smash the state!

SENTENCE

nato 3 sentenced to 5 to 8 years, receive credit for time served

04.25.2014

The NATO 3—Brent Betterly, Jared Chase, Brian Jacob Church—were sentenced today in the Cook County Criminal Courthouse. The sentencing hearing consisted of post-trial motions, witnesses from the state providing testimony about the defendants being terrible people who deserve prison, a witness testifying about Chase's medical situation, the state's aggravation arguments supporting why the defendants should each get 14 years in prison, the defense's mitigation arguments supporting why they should all get light sentences, statements by Betterly and Church, and the sentencing itself.

The defendants were sentenced as follows: Church, five years; Betterly, six years; Chase, eight years. They were each also sentenced to two years of probation, court costs ranging from $1100–1300, and a daily fee for their “stay” in Cook County Jail over the last two years. They also received credit towards their sentence for each day they served in jail prior to sentencing and will serve their sentences at 50 percent. Thus, Church could get out of prison in about 6 months (5 year sentence at 50% with 2 years' credit leaves about 6 months to go), Betterly in about a year, and Chase in about 2 years.

Post-trial Motions Hearing

The defense filed post-trial motions arguing for a new trial or, if that was not granted, for the judge to vacate the jury's verdict and acquit the defendants of all charges. All of the defense attorneys waived oral arguments on those motions, as did the prosecutors. The judge thus made his decision on the motions based on the written briefs alone.

After expressing surprise that there would be no oral arguments, the judge talked through his decision-making process on the motions. He said he reviewed the motions, case law, and some of the pre-trial and trial transcripts while making his decisions. Based on this record, he said, it was clear that the undercovers foiled the defendants' plan to attack targets during the NATO summit.

He then reviewed the charges the NATO 3 were convicted of at trial. The defense motion argued that the judge had erred during trial and thus the defendants should be granted a new trial. However, he said that the evidence presented at trial showed that the defendants traveled together to Chicago, used Facebook to create their plan, met other people on May 1, 2012 [the undercovers – ed.] to recruit members of their plan, and met at various times throughout the undercover investigation to discuss their plans. He also acknowledged that Betterly was not present for most of the discussions and that Betterly had argued that lumping all the defendants together was inappropriate.

The judge also explained that, for post-trial motions, he was required to look at the record in the light most favorable to the prosecution. When taking this perspective, he found that the evidence at trial showed that the defendants conspired to come to Chicago and commit acts of violence, including building Molotovs. He also said the prosecutors showed evidence that the defendants had brought weapons to Chicago and that instructions for creating a pipe bomb were recovered in the raid on the apartment where they had been staying. Overall, the evidence showed that the defendants are guilty beyond a reasonable doubt, like the jury found.

The judge then outlined that Chase had also argued that he did not have the intent to commit arson. Further, Chase argued in his motion that the park where some discussions took place and that was mentioned as a place to throw the Molotovs is not real property under the law and thus cannot be a target in an arson charge. The judge said that this argument was nonsensical and that, anyway, the park was not the only target discussed. Similarly, Betterly had argued that he did not have the intent to commit arson. In response, the judge said that Betterly was on the porch when the Molotovs were built and that his argument that there is uncertainty about his presence on the porch based on the audio recordings is without merit. Additionally, the judge said that he had made statements about how the Molotovs should be made and that his co-conspirators' statements can be used against him due to the conspiracy charge. The judge further said that Betterly's argument that he never touched the Molotovs is irrelevant under Illinois possession laws, as direct physical control of them is not a requirement to be found guilty of this crime. Overall, the judge said, Betterly's arguments fail.

The defense post-trial motion also argued that the judge had made errors that necessitated a new trial. The judge said that there were no serious errors in the trial and nothing that would have affected the jurors' finding of guilt beyond a reasonable doubt. Specifically, Church had argued that the judge had erred in admitting the hand-written instructions for making a pipe bomb. In response, the judge said those instructions were relevant and that the defense had been given the document appropriately. Thus, that argument fails as well. Chase had also argued that there had been inappropriate restrictions on the defense cross-examination of the police about the investigation into anarchists in the lead-up to the NATO summit. The judge said there were no errors in the way he allowed the cross-examination to proceed either. Church had also argued vindictive prosecution, to which the judge said there was not a scintilla of evidence of this at all.

The defendants had also argued that the judge erred by not giving a jury instruction on the lesser-included attempted possession charge. The judge rebuked this, saying the defense and prosecution could not agree on a dollar amount for this charge, so it could not be offered to the jury. Finally, regarding the entrapment jury instruction, the judge said that the defense had improperly argued “soft entrapment” when they had not mounted an entrapment defense at trial. Therefore, there were no errors in the jury instructions either.

To conclude, the judge said, “This is not a First Amendment case.” He then stated that he was denying all of the defense's post-trial motions.

Sentencing Hearing: State Witnesses

During the sentencing hearing, both the prosecutors and the defendants had the opportunity to present witnesses to provide the judge with more information about the defendants to consider when making his

sentencing decisions. The prosecution presented a string of jail guards and officials, whereas Chase presented one expert witness to discuss his medical condition.

The hearing began with Thomas Durkin, one of Chase's lawyers, protesting the state bringing guards in to testify against Chase. Durkin argued that the state wanted the guards to testify about Chase's other pending case in Cook County, which would be a due process violation for that case and could create double jeopardy issues. [Chase allegedly sprayed a mixture of urine and feces out of his solitary confinement cell. He was beaten so badly after this alleged incident that he was sent to the hospital for about ten days. When he returned, he was charged with felony aggravated battery against a police officer. – ed.] The prosecutors replied that there was no due process issue and the judge quickly agreed, saying that he would determine the weight to give the testimony when making his sentencing decisions. Regarding the pending charge, he said that he would allow the testimony but would not consider it when making his sentencing decision. When asked why he would allow the testimony, the judge replied that the appeals court has ruled that this is the proper procedure. In response, Durkin called the case law allowing this process "fool's reasoning" and said, "I object to this whole proceeding."

HOSTIS HUMANI GENERIS

"The Enemy of Humankind," a legal term designating those who are outside the protection of any state or law and may be killed by anyone at any time. Historically, it has chiefly been applied to pirates, who were considered fair game for any noose on account of having declared war on the world. Here, once again, the institutions governing humanity are conflated with humanity itself (see We); rebels who oppose them come up against the whole species, starting with all who wish to see themselves as its protectors.

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The judge moved on to the state's motion asking for consecutive sentences. They had argued that since there were four Molotov cocktails, the defendants should be sentenced separately for each and the sentences should run consecutively (one after the other) rather than concurrently (all at the same time). The judge said that the sentences would not be consecutive and that he would follow "one act, one crime" when sentencing the defendants. In technical terms, the two mob action counts would be merged and each defendant would be sentenced for that one act. Likewise, the two possession charges would be merged in terms of sentencing and each defendant would be sentenced for that one act.

The state then started calling witnesses to testify against the defendants. The first jail guard testified about Chase allegedly spraying a mixture of urine and feces out of his cell while in solitary confinement. She said that a clean-up crew wearing hazardous materials suits had to spray it down. Under cross-examination, she denied that incidents such as this alleged one are common for people locked in solitary confinement. She also claimed that she has never read studies about the effects of solitary confinement on prisoners. Further, she denied knowing anything about a class-action lawsuit filed against Cook County Jail due to the inhumane conditions of imprisonment there in several of the divisions [that lawsuit is pending – ed.].

The second guard to testify against Chase offered similar testimony. Under cross examination, she said that she knew he required a special diet because of his medical condition but did not know what that medical condition was or how it affected him. The third guard called to testify offered similar testimony with the addition that Chase claimed to have been on hunger strike once when he threw his food tray out of his cell.

The prosecutors next called an investigator who had been assigned to investigate the incidents that led up to Chase facing additional charges. He narrated the allegations against Chase as if they were facts. Durkin

renewed his objections to the testimony based on double jeopardy and due process concerns, but was again overruled. Under cross-examination, the investigator said that he had investigated about 20 such incidents since he started his job in 2007 and denied that he knew anything about the class-action lawsuit against the jail. For the final witness against Chase, the prosecutors called a guard who serves as a security officer for the hearing board. The hearing board reviews alleged incidents within the jail. This witness said that Chase had been disciplined for rule violations; he was not cross-examined.

The prosecutors then started calling witnesses to testify against Betterly. The first guard testified about an alleged incident of Betterly throwing a bottle at an observation window within the jail, punching the window, and yelling, “Fuck the police!” The guard also said that Betterly refused to lock down several times before he finally complied. Under cross-examination, the guard said that Betterly was on “house alone, out alone” status at the time. [Under this status, prisoners are alone in their cells for about 23 hours a day and are given about 1 hour a day of recreation time that is also spent alone. – ed.] Molly Armour, one of Betterly's lawyers, played a video of the alleged incident for the guard. On the video, Betterly could be heard protesting the conditions of his confinement and the arbitrariness of the rules being enforced. In particular, he was speaking out against having not been given his hour out until around midnight, when he could not make a phone call out to his loved ones. The guard also admitted that he assigned Betterly and other prisoners particular tasks, such as distributing and collecting food trays, but claimed that he ran the tier and assigning tasks does not indicate that he trusts any of the prisoners. He also claimed that he did not know how the incident ticket that he wrote up about Betterly was resolved or if any disciplinary action was ever taken.


A view of Cook County Jail.

Next, the prosecutors called a guard who had only been employed by the jail for about seven months. This guard testified that Betterly had refused to lock up when ordered to do so and had made aggressive comments to him such as, “watch out pig.” Under cross-examination, with sweat visible on his brow, he denied having told Betterly that the jury may have “bought your shit, but I don't” on the date of the alleged incident. Rather, he said that he made that comment two days later. He also denied ever telling Betterly that he hoped he received the maximum sentence. Likewise, he denied going out of his way to harass and antagonize Betterly.

The final witness against Betterly was a guard who testified that, while Betterly was being processed in the psych ward at Cermak Hospital after being arrested, he heard Betterly utter a racist comment. [The guard is African American. It is important to note that the judge in this case—who determines how much time the defendants will serve—is also African American and has a picture of Martin Luther King, Jr. hanging up in his courtroom. The all-white prosecution team undoubtedly thought this testimony would cause the judge to dislike Betterly even more. - ed.] The guard claimed that he had heard Betterly make this comment and had asked him to repeat what he said to challenge him on it, but Betterly had remained silent at that point. Under cross examination, the guard said that he wrote an incident report about the comment but did not know that it had been disapproved and that no disciplinary action had been taken. He also admitted that he had later escorted Betterly to his cell after he was processed and that he had not been rude during that interaction.

To conclude the state's part of the hearing, they offered a stipulation that a witness who was unavailable to be called to the stand would have testified that Betterly had asked to be in the protective custody section of the jail. The defense agreed to this stipulation.

Sentencing Hearing: Defense Witness

The only witness called on behalf of any of the defendants was a neurologist who testified about Chase's medical condition. Chase has been diagnosed with Huntingdon's disease, a degenerative neurological disorder that is hereditary. The doctor testified that she has examined him twice and that he exhibits the physical and cognitive symptoms of the disease and that he took a genetic test that proves that he has Huntingdon's. Additionally, his father died of Huntingdon's a few years ago. Some symptoms of this disease are problems with motor skills, planning abilities, decision making, speech, and behavior control. All of these symptoms are progressive, meaning they become worse over time. Typically, people with this disease pass away within 17 years of the onset of their symptoms. When people begin exhibiting symptoms at an early age, such as Chase has, they may pass away within 10 to 15 years and usually require a nursing home in the last 8 years of their life. Chase likely began exhibiting symptoms as early as 2008, so he could require a nursing home as early as five years from now.

After examining Chase, the doctor had recommended treatment for him, but the jail had not followed her recommendation. Rather, she testified, the jail had punished him for outbursts when the appropriate reaction would have been treatment. She also said that she had had great success with patients who have received the treatment they need. In particular, she recounted an incident in which she was examining Chase and he said the handcuffs on his wrists were too tight. He was making movements that the guard thought were voluntary but that likely were not because they were related to his disease. She said the guard had refused to loosen the handcuffs and had told Chase to stop moving around. She also testified that Huntingdon's causes people to engage in behaviors similar to toddlers throwing tantrums when their needs are not met.

The doctor further testified that she had recommended a special diet for Chase because Huntingdon's creates higher caloric needs for people. She noted that Chase had lost about 40 pounds since he was arrested.

ENTRAP

When federal agents, being too incompetent to catch anyone actually involved in criminal activity, need something to show for all their efforts, they seduce unwary victims into compromising situations and arrest them (see Eric McDavid). Technically, this is illegal—but like anarchists, federal agents don't trouble themselves about trifles when there's a job to do.

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Under cross-examination, the doctor told of her experience working with another prisoner in Cook County Jail who had Huntingdon's and was denied the treatment she had recommended. She recounted the prisoner being repeatedly punished for outbursts rather than receiving treatment. She also stated that she knows that a prisoner in the Illinois Department of Corrections will not receive the needed treatment even if it is recommended. However, she stated that she would love to care for Chase if he were released into her care.

State's Aggravation Arguments

After the doctor was released from the stand, the state began its aggravation arguments to substantiate their request of the judge that the defendants be sentenced to 14 years in prison. The prosecutor began his argument by comparing the NATO 3 to the Boston Marathon bombers. The defense quickly objected to this offensive

vitriol, but the judge overruled their objections. The prosecutor then went on to argue that the marathon bombers had succeeded because there had been no undercover officers involved to stop them before they acted. The defendants had come to Chicago for “open season” on the police, created Molotovs, and did not care who got hurt. He claimed they would have succeeded if the undercovers had not been there to prevent them from using their bombs and acting on their intent to commit arson and hurt people.

Speaking about each defendant in turn, he claimed that Church is fueled by hate and loves the attention he has received from his case. Thus, he would be thirsty for more violence and attention when he is released. He next claimed that Chase uses the only weapons at his disposal when he is in jail and would undoubtedly use more serious weapons once he is released. He then claimed that the doctor's testimony had confirmed that Chase would use more serious weapons and violence when given the means and opportunity. Regarding Betterly, he claimed that he is “no Father of the Year” and was not thinking about his son when creating Molotovs. Rather, he was concerned with doing drugs and “effing the police.”

The prosecutor argued that they should each receive 14 years because they already have credit for 2 years and, since they will be serving their sentence at 50%, they need to spend an additional 5 years in prison to teach them a lesson. Less time would not be sufficient to dissuade future violence, he argued.

Defense's Mitigation Arguments

Chase

Durkin gave the mitigation argument for Chase. He opened by calling the state's post-trial motion intellectually dishonest and despicable. He also said that the prosecution does not understand that the whole world is laughing at them for losing the terrorism case. Instead, they are still trying to salvage their political prosecution and cover for the mayor's security expenditures for the NATO summit by trying to send the defendants away for so long. He also said that they are calling for 14 years to punish the defendants for challenging the state's authority and taking their case to trial.

Durkin also cited the case of the Texas 2—Brad Crowder and David McKay—who were entrapped by activist-turned-informant Brandon Darby in the lead-up to the 2008 Republican National Convention in St. Paul, Minnesota. [Darby goaded them into creating Molotov cocktails and then called in the FBI to arrest them as they were leaving the city, having walked away from the Molotovs after deciding not to use them. – ed.] Both defendants ultimately pleaded guilty. Crowder was sentenced to two years and McKay was sentenced to four years. Durkin argued that McKay was sentenced to twice as much time as Crowder because he had taken his case to trial, which had ended with a hung jury. He pleaded guilty before his case went to trial for a second time. Durkin also argued that the prosecutors were asking for much more time than those defendants had received for federal offenses.

IGNORANCE

Contrary to bourgeois mythology, the greater a person’s wealth and privilege, the less likely it is that he or she will be well informed. Privilege means insulation from the effects of one’s own actions as well as other inconveniences; often, those who contribute the most to suffering and devastation are the least aware of it. Who knows more about waste treatment facilities—the people who discuss them in boardrooms, or the ones who live in their shadow?

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A view of Cook County Jail.

Durkin also asked if the state was kidding when they said, in their post-trial motion, that this case was worse than a murder-for-hire case. He also questioned how many people facing murder charges plead out for less time than the 14 years the prosecution was seeking. In reality, he argued, the only way the state could actually win the case would be if the defendants received long sentences. He also decried the immature decision making that had gone into the state pursuing terrorism charges, expressing appreciation for the jury being the “adult in the room” by acquitting on those charges.

Focusing on the state's aggravation argument, Durkin said he could not believe that the state could be ignorant enough to compare the NATO 3 to the Boston Marathon bombers. This comparison made him ashamed of Chicago, he said. He also related the persecution of the defendants to the nativism and xenophobia of the early 20th Century in Chicago. This is the origin of totalitarianism, he argued. He then argued that the defendants should be sentenced like everyone else who would be facing these charges, which would be to about four or five years. The only reason they were arguing about whether they should be sentenced to more time, he argued, was because the state had decided to make this case a show trial.

Church

Michael Deutsch of the People's Law Office delivered the mitigation argument for Church. He began by noting that Church's mother and brother were in court and that his brother was stationed abroad with the army so he had to get leave to attend. He also noted that Church had written the judge a letter for his consideration prior to sentencing. Church had a difficult childhood and was only 20 years old when he was arrested, Deutsch said. He asked, “What interests are served by sending this young man to prison?” He also said that Church had matured a lot during the two years he has spent in isolation within the jail. This maturation is shown in his letter to the judge, in which he wrote that, even had he been acquitted of all charges, he would have regretted the way he distracted from the NATO protests and other non-violent protests he had been involved in by making irresponsible comments.

Additionally, the state had always wanted to make this a big case, which was seen by the way they initially asked for a $5 million bond for each defendant (the presiding judge had set it at $1.5 million each). Deutsch also argued that the state had the audacity to ask the judge to resurrect the terrorism charges through a harsh sentence since the jury had rejected them at trial. None of the NATO 3 should go to prison, he argued. Church has a bright future ahead of him and should be able to go home. The two years they have already spent in jail is enough of a deterrent for anyone who is protesting in Chicago and may be contemplating taking illegal action, he argued.

Betterly

Lillie McCartin, another of Betterly's lawyers, gave the mitigation argument for Betterly. He came from a troubled home and was homeless at 14 years of age, she said. He was also emancipated at 16 years of age and worked full time for many years to support himself and, later, his family. She also reminded the judge that many people had written letters of support for Betterly to talk about his good character.

Regarding the testimony against him earlier in the day, he vehemently denies the allegation that he made a racist comment, as this is against his principles and his worldview. Further, the other alleged incident in the jail was not sustained; he had only received two incident reports in his two years in jail anyway.

Betterly is consumed with guilt over being away from his son, McCartin said. He will also be a productive citizen when he is released from prison. While the state wants the judge to sentence all the defendants as terrorists, she thinks they should all receive the lightest sentence.

Defendant Statements

After the defense attorneys presented their mitigation arguments, the defendants had an opportunity to address the judge directly.

Church

Church made a statement to the judge. He asked the judge to read the letter he wrote and read an excerpt from it for the judge. He admitted that he is not a perfect person, but he has learned from his mistakes. He also said that a wise person learns from their mistakes. In his case, he has spent the last two years educating himself in his cell by reading hundreds of books. Now, he wants to go home and be with his family. He has both his family and a job waiting for him.

Church also said that, despite what the judge and prosecutors may think, he loves his country and it hurt to be compared to the Boston Marathon bombers. He asked for the judge's compassion when deciding on their sentences. They all have good things going for them, he said, and they could not do them if they were to remain locked up.

Chase

Chase declined to make a statement.

DEMOCRACY

As Oscar Wilde put it, “The bludgeoning of the people by the people for the people.” A system that promises everyone the opportunity to rule everyone else, yet renders no one free.

Our forebears overthrew kings and dictators, but they didn’t abolish the institutions by which kings and dictators ruled: they democratized them. Yet whoever operates these institutions—be it a king, a president, or an electorate—the experience on the receiving end is roughly the same. Laws, bureaucracy, and police came before democracy; in democracy as in dictatorship, they function to interrupt self-determination. The only difference is that, because we can cast ballots about how they should be applied, we’re supposed to regard them as ours even when they’re used against us.

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Betterly

Betterly opened his statement by saying that he was glad to be able to speak for himself after only having people speak for or about him for two years. He also wanted to make sure right off that the judge knew that the allegation that he made a racist comment is a complete fabrication and just another lie being told about him. He also wanted to address the state's use of “anarchist,” as it had been used interchangeably with “terrorist” throughout the trial. “I consider myself an anarchist,” Betterly said. He explained that, as an anarchist, there are certain principles he lives by and others that he does not follow. The truth of the matter is that he opposes oppression in all its forms.

Betterly told the judge that he had come to Chicago to join his voice in solidarity with those affected by NATO, corporations, and other forms of economic exploitation. He also said that there was no doubt that the NATO summit changed the physical and political landscape of the city, just as there is no doubt that bad things were said and caught on tape. While he was not trying to deflect blame for his statements, they were just statements and were not serious. Even so, he has already lost two years of his life to this case.

He then talked about his son. He became a father about seven years ago, at a young age, and worked hard for years to provide a good life for his son. Yet he kept struggling and kept facing setbacks. Through these struggles, he realized that his situation was the same as countless others who struggle to survive. He also realized that their struggles to change these conditions needed to be collective. Further, he knows that, just as when he looks at photos of his son and is filled with indescribable love and longing, other parents around the world feel this when they look at their children. He said that it is not his parental responsibility to shield his son from the policies that are destroying the world and the many injustices in the world, but to expose them and work to change them so that his son can live in a better world.

Betterly then concluded his statement. Sniffling could be heard throughout the courtroom and supporters were wiping their eyes and consoling each other as he sat down.

The Sentencing

After the defendants made their statements, the judge sentenced them. To preface his sentences, he stated that much had been said about what the case was, so it was important to say what the case was not. This was not a case about anarchism, dissent, fear mongering, police entrapment, or the First Amendment, he said. This was also not a case about terrorism.


A view of Cook County Jail.

He continued by saying that the undercover police officers did the best the could as the case developed around them, and for this they should be commended. When the police do violate our rights, though, they should be charged and sued. They should not be set on fire, he said.

As a society, he continued, we do not wait for property to be destroyed, for shrapnel to hit people, or for Molotovs to be created. But we do litigate fairly after people have been charged, he said. And the idea of throwing a Molotov cocktail is terrifying, even if it is not terrorism.

The judge then sentenced the defendants as follows:

Church was sentenced to 30 days for the mob action charge and 5 years for the possession charge, to be served concurrently with credit for the time he already spent in jail. He would also have two years of probation upon release and would be made to pay about $1100 in court costs.

Chase was sentenced to 30 days for the mob action charge and 8 years for the possession charge, to be served concurrently with credit for the time he already spent in jail. He would also have two years of probation upon release and would be made to pay about $1300 in court costs.

Betterly was sentenced to 30 days for the mob action charge and 6 years for the possession charge, to be served concurrently with credit for the time he already spent in jail. He would also have two years of probation upon release and would be made to pay about $1300 in court costs.

Shortly after the sentences were read, the NATO 3 were escorted back into the bowels of the courthouse to be sent back to the jail to await transfer to prison.

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