

Report on Stanislas Meyerhoff's Sentencing Hearing

author: Gumby Cascadia

Summary:

On Tuesday 5/22 Judge Ann Aiken heard sentencing arguments for Stanislas Gregory Meyerhoff. The hearing continued into 5/23.

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U.S. Attorney's arguments

Assistant US Attorney Kirk Engdall argued the sentencing of Stan Meyerhoff, characterizing him as a "serial arsonist who became leader of the cell known as The Family" and used the ELF to justify their crimes. Told judge and courtroom that ELF originated in 1992 by Earth First! in England. ELF/ALF rules include strict nonviolence guidelines which include economic sabotage, vandalism, etc. Goals include: (1) inflict maximum economic damage of exploiters, (2) educate public about issues of concern, (3) take all necessary precautions against loss of human life. (Kirk says this is only for convenience). He said that cell members existed largely on a subsistence lifestyle, dumpster diving, squatting abandoned buildings, growing and selling marijuana and shoplifting for necessities. Describing the cell as extremely secretive, he went on to enumerate steps taken to protect anonymity, including the use of aliases, code words, computer encryption, falsified documents to obtain licenses and other identification. He asserted that the cell educated members and others on arsons and philosophies. He said that Meyerhoff attempted to improve designs to incendiary devices, and published how-to 'zines that were to be broadly distributed as well as conducted trainings on manufacturing devices for the Book Club.

He then went on to enumerate each of the crimes to which Stan has admitted, using a Power Point display to show slides and videos of the targets and the damage done to them. He discussed the "heady days" of the early years of the conspiracy, saying that in October of 1998, Meyerhoff was recruited by Bill Rogers to burn Vail. He asserted that the public communiqués were popular in environmental media which extolled the movement and decried the victim, and that communiqués were only to be sent if an arson was successful and popular with the movement, and there were no injuries. He claimed the group destroyed GE research, calling it "reckless science" in communiqués. He said the Book Club met 5 times in 5 locations in 3 states over 2 years; that the last meeting was in

the summer of 2001, in Sisters, OR. The meeting was intended to improve knowledge and techniques of arsons.

He characterized Stan as becoming more of a leader in each action... planning the actions, building the devices, and recruiting cell members. He said that Meyerhoff became increasingly frustrated with the ineffectiveness of the actions ("impotence of arson"). Engdall said that Stan spoke with Rogers about escalating to violence against humans, but that after the burning of wild horse corrals at Litchfield, CA, the group went their separate ways.

Kirk characterizes Meyerhoff as smart, but lonely. Described him as a social misfit, rejected by his peers, a loser. The he met Chelsea Gerlach and began a "downward spiral" to becoming an angry individual. He said the defense would argue that Gerlach "led him down the path of crime", but that Meyerhoff continued doing arsons after Chelsea left him. Engdall said Rogers and Meyerhoff had private and public discussions about targeting corporate leaders for assassination, and that Meyerhoff engaged in a conspiracy with Joseph Dibee to assassinate Jonathan Paul. Engdall said the two were approached by law enforcement in Williams, OR after getting lost and called the hit off.

Substantive Arsons:

10/11/98 BLM Rock Sprgs, WY. Attempted arson, aborted because of horse stampede. Original target was Vail, but decided on 2nd target. Engdall claimed they targeted BLM to intimidate, coerce, and retaliate against the US and BLM. The communiqué says they freed 100 wild horses, informed the public of slaughter of wild horses.

10/19/98 Vail. Meyerhoff leaves before arson, but helped with devices. Rogers does it on his own with Gerlach driving him. Feds say even though the arson targeted private corporate expansion, it was on federal land, and so was targeting government.

5/9/99 Childers Meat Co., Eugene, OR

12/25/99 Boise Cascade logging company, a private industry, but feds argue they do public and private lands logging, therefore targeting "government". Stan placed the devices. Targeted multinational corporations that don't respect the ecosystem (video clip of fire)

12/30/99 BPA Power tower toppling for Y2K, near Bend, OR. (CG, SM, Jake Ferguson, J. Overaker). Hoped for LA power outage, but power was

rerouted before blackout.

9/6/00 West Eugene public safety station, Eugene, OR. Gerlach, Meyerhoff, Tubbs, Ferguson Meyerhoff organized the arson and tested a new device. Engdall claims motive was because activists were angry at Eugene Police Department because of the Rob Thaxton case, and were pepper sprayed by EPD during the 7 Week Revolt. Kirk says this arson was incredibly dangerous because it was a risk to people in a busy place. Device was mounted on bike and leaned against building. Engdall asserted it was "clear retaliation" against the EPD and therefore an attack against government and a terrorist act. Fire was put out by hospital security guard with a small fire extinguisher. (Don't think they use fire extinguishers to deal w/ terrorist attacks in the Middle East eh?)

1/2/01 Superior Lumber Co., Glendale, OR. Meyerhoff constructed timers and placed devices as co-leader. Communiqué issued said escalation of tactics against capitalism and industry.

3/30/01 Romania II. Statement of defiance for Jeff Luers. Engdall said Stan referred to this action as the "big one", that he tested a new device - sheets soaked in fuel connecting the SUVs. Meyerhoff recruited Block & Zacher from Olympia. 35 SUVs destroyed, very effective arson. Video clip shown to demonstrate dangerousness of fire to firefighters. Slides of fire and burning, released toxic gases and fumes, hazmat team called. The Feds called it an attack on the state because of the prosecution of Jeff "Free" Luers.

Jefferson Poplar Farm, Clatskanie, OR. Engdall says Meyerhoff was team leader, "double whammy" with University of WA arson. Recruited Block & Zacher, McGowan ("who was always invited to GM actions" according to Engdall). Tubbs, Gerlach, Ferguson were advisers only on this one. Farm states no GM research conducted there, only hybrid research. 3 buildings targeted, 2 burn.

10/17/01BLM Litchfield, CA horse corral. Meyerhoff built devices.

He enumerated other actions Stan was involved in that he was not being charged with, including an arson at Pima Canyon Estates (a luxury development in Tucson, Arizona) 6/12/01, another at Michigan Tech University 11/5/99, 8/28/99 BioDevices animal liberation, Judie timber sale tree spiking 2/20/01, the destruction of culverts at Eugene Sand and Gravel, and 3 GE actions against Monsanto, OSU and VA Polytech. In all, he said Meyerhoff had been involved in actions totaling over 30 million

dollars not including uncharged crimes.

Engdall then called witnesses to testify. The manager of Jefferson Poplar Farm said they were engaged in research of hybrid poplar trees, highlighting the "green" uses of them. He said he was the one who discovered devices in the office building that had not ignited. OSP was called in to remove the devices. He said the overall effect was that his employees were inconvenienced and emotional, spare parts and tools were lost, and that he eventually laid off the workers and closed. The Deputy Chief of the Clatskanie Rural Fire Department then took the stand. He said that when he got to the site, two buildings were on fire, so he doubted it was an accident. He said he could smell propane near the tank, and that it was very close to the building. He testified that he thought the tank could rupture and become a "fireball", and that the tank could be propelled into the air from an explosion. Meyerhoff's attorney cross-examined him, and he said that the fire was put out prior to his shutting off the tank, and that remains of the device were still intact.

Engdall summed up with the things taken into consideration for the feds' recommended sentence, such as the danger involved, the number of crimes, the complexity of them, the threat to life and property. He said that Romania and Jefferson Poplar were especially dangerous, and that Meyerhoff had taken a leadership role. He said they had spoken to Meyerhoff's mother, family and friends, and that they take into account his age, any psychological issues, any abuse in life, any indications of violence. They also consider his cooperation, the TIMING of his cooperation... was it initial, delayed or influenced by others? Was his cooperation valuable? Did he encourage others to cooperate? He said they had also considered the deterrent effect of any sentence to be recommended, and its effect on future prosecutions. He said they had consulted with US Attorneys in Oregon, CA, CO, WY, AZ, MI, and WA, the FBI, BATF, USFS, BLM, ODOJ, US DOJ, OSP, EPD, who were all "integral" to the investigation, and that their recommended sentence was 180 months. He said they recommended this sentence based on Meyerhoff's role as a serial arsonist, but mitigated based on the fact that he was law-abiding before and after his involvement, and because he cooperated even without the presence of a lawyer, and continues to cooperate. His aggravating factors are his leadership role, his role as strategist, as an "arson emissary", that he taught others to start arsons and cells. He said the maximum sentence Meyerhoff could have received was 1, 245 years, and that the terrorism enhancement clearly applies to him.

Defense Arguments

Meyerhoff's defense attorney, Terri Wood, began by calling witnesses. Jim Smith, and arson investigation expert was first. He examined the fires at Jefferson Poplar, Romania, and Childers. Wood asked if the propane tank at Jefferson Poplar could have exploded at the time the first responders arrived. He said not if the tank was venting through the pressure valve. He testified that he's done extensive research on expanding gas explosions. He said that smaller amounts of pressurized gas create larger explosions, due to the fact that propane will boil faster in smaller amounts. He said that at Jefferson Poplar the tank would have required an excessive amount of heat at the bottom of the tank, or the tank would have to be engulfed in flame for it to explode, and that the placement of the two incendiary devices 6-7 feet from the tank would not have created sufficient heat for that to happen. He stated that if the pressure valve had failed, there would be no explosion, but a blowtorch effect. As to the vehicles on the property, he said that the highest fuel load and chance for an explosion in a vehicle burn is the tires, and that firefighters know this, and put the tires out first. There was no explosion at Jefferson Poplar. As for Romania, he said that there was no damage to the offices, that the area where the vehicles burned was really hot, but heat rises, so the damage was contained to the vehicle area. Responding to the ATF report about a device being placed close to a gas meter at Childers, he said a meter rupture would not have caused an explosion, but a blowtorch effect. He said that since it was a non-home structure, that firefighters knew there were no people inside, and did not therefore take dangerous risks to rescue people. Safety is their #1 concern if a building is engulfed, so they back off and try to contain the fire.

Wood also called Zelda Ziegler, a former Department of Energy contractor in incident response, to testify on the same subject.

Wood then spoke of the vulnerability Stan would experience due to his cooperation with the government, and cited media attention to his cooperation, such as in Rolling Stone, and articles in the Earth First! Journal that print "veiled threats" against snitches, as well as on Portland Indymedia. She stated that Stan has been added to Who's A Rat website, and referred to a dispatch from Jeff Luers of 12/05 saying that snitches "should be treated accordingly".

Then she called Paul Solomon, director of men's services at Sponsors, Inc., a local Eugene post-incarceration support service provider. Solomon testified that he'd spent nine years in prison for robbery and drug crimes,

including five years of federal time in Sheridan, OR. He stated that "snitches" or "rats" are at the bottom of the pecking order in prison, second only to child molesters. He said they are abused, extorted for protection, and assaulted... anything from name-calling to stabbing... and are more susceptible to sexual abuse as they are prime targets for exploitation. He testified that maximum security facilities house more violent offenders, while minimum-medium facilities have more programs giving offenders a vested interest in earning "good time". He said that Stan would have a particularly hard time if placed in a maximum security facility due to his lack of "street sense", and his lack of criminal knowledge... how to survive in the joint. This would only be exacerbated by the "snitch jacket".

Next up was Harvey Cox, a retired Bureau of Prisons warden from Texas, and a former correctional consultant at Terre Haute, Indiana Federal Penitentiary (the "terrorist" prison). He said that Stan's classification will be decided by the Bureau of Prisons by worksheet on a point system, which includes these factors:

- did felon voluntarily surrender?
- the severity of offenses (arson rates at highest severity level)
- criminal history (terrorism enhancement would raise Stan from a 0 to 10)
- history of violence
- history of escape
- detainers (?)
- age factor
- education level
- drug or alcohol abuse history

He said 12-15 points is low security, 16-23 is medium, and 24+ is high security, with some discretionary latitude allowed. Other factors considered are public safety factors such as gang affiliation or other "disruptive group" affiliation, which the ELF could be. He talked about the politics involved, stating that the BOP work for Atty. General Alberto Gonzales, and that the bureau will do what he says. ELF is the #1 domestic terrorist threat? Stan is likely to be designated high security and sent to a supermax facility like Terre Haute. He said supermax prisons are "hard to get into". He said that inmates spend 23 hours a day in lockdown, with one hour in a caged area considered a "yard". He said typical high security prisons house the most violent offenders with prior records who are "criminally sophisticated". Snitches are frequently assaulted. He said he had seen two to three assaults a week, anything from minor injuries to murder. He said that the sensory deprivation of prisoners locked up for "their own protection" leads to severe

psychological problems.

Judge Aiken interjected that the Bureau of Prisons says they can't comply with her recommendations. She asked Mr. Cox what she could do about this. He told her to write a personal letter, instead of just the usual forms, to the Regional Director highlighting the extraordinary cooperation of this defendant in a high profile case, explaining that Stan is not viewed as a security risk or violent, and to say that he's not a terrorist even if the terrorism enhancement is applied. He said a letter from the US Attorney would get lots of attention and be even more effective.

Then Dr. Robert Stanulis took the stand. He is a forensic neuro-psychologist who evaluated Stan. He said that Stan was only 21-24 years old when he was involved in ELF, that he was not a leader of the group, but was a competent individual with his assigned tasks, eager to please a leader. As to his tendency to violence, Dr. Stanulis said Meyerhoff scored very low on that scale. He said that Stan's motivation was to make the world a better place, even though the tactics were criminal, and that though he had toyed with the idea of violence, as an intellectual he disregarded it as an option. The Dr. characterized Stan as a "passive non-violent" person who rationalized his acts as civil disobedience. He stated that because Stan is committed to making the world a better place, his likelihood of recidivism is low. He said that the frontal lobe development of a 22-24 year old doesn't fully rationalize long-term consequences. He then listed the possible consequences of a long and violent prison experience... Post Traumatic Stress Disorder, depression, suicide, and the risk of increased radicalization in prison.

Wood then showed a video with short testimonies of several of Stan's professors at Central Oregon Community College, and several of his relatives, as well. Then Stan's mother testified, and pled with the court for leniency. Court was recessed for the day.

5/23/07

Meyerhoff's attorney, Terri Wood, started off the day with objections to the fed's use of defendants' debrief info (which she contends is inadmissible) to characterize Stan as a leader in the Jefferson Poplar and Romania actions. The government conceded to the objection.

Wood said that the incident with Joseph Dibee did not involve anything related to the movement, that Stan didn't agree to murder anybody. She said it was more likely that Joseph was just "blowing off steam" and that Stan just "went along for the ride". She said that was Stan's last contact

with Dibee. She claimed the government was overreaching with regards to the talk of escalating violence, and that talk of assassination as revolutionary speech is protected by the first amendment. She then brought up factual disputes regarding the application of the terrorism enhancement, saying that the government's assertion that any actions that caused injury or death would not be claimed by the ELF (per Craig Rosebraugh) implied there had BEEN actions that caused injury or death but were unclaimed... an assertion with no basis. She objected to the government's characterization of Stan as a leader in the West Eugene Police substation arson, and the implication that the propane tank at Jefferson Poplar was just "waiting to explode"... all hyperbole.

The feds responded that under the plea agreement, the stipulation of facts says that Meyerhoff took a leadership role. Savoie and Phillabaum both placed him at the location of the Monsanto action (for which he is not charged). A contact in Michigan advised them that Meyerhoff had gone out and trained him in the construction of devices.

Wood countered that under the plea agreement, the stipulation of facts for each count was not a waiver of debarment privilege. The judge agreed, saying that hearsay statements during a sentencing is allowed, but that due process still exists, so hearsay can't be relied on for sentencing unless there is extensive evidence.

Wood's objections to the application of the terrorism enhancement were next. She reiterated the government's burden of clear and convincing evidence for each defendant. She said the only uncontested information on motivation factors are the communiqués. She said the only government property destroyed were the Bonneville Power tower, and the Eugene Police substation, and that neither of those had issued communiqués. All other crimes were against private industry. She said that, furthermore, the communiqués do not establish by clear and convincing evidence the motive to retaliate, coerce or intimidate. She argued that the Romania communiqué was solely about torching SUV's, not changing laws, and that there was no belief that the action would influence the government by intimidation or coercion. She said there was no adequate link, that it was a clear expression of defiance, not retaliation. In the Vail communiqué, there is no mention of a federal lawsuit. Being defiant of government is NOT retaliation, and is not intended to coerce the government. As to the BLM arsons, she said there is conspiratorial liability only for Stan, that they don't qualify as predicate crimes under 844(f)(g). She also argued that if the terrorism enhancement is applied, and the judge decides to downward depart the Criminal History

category from a 6 to a 1, it would still be a misrepresentation of Stan's true Criminal History.

The government responded that the communiqués are potent exhibitors of motive, especially the Romania communiqué shows a strong anti-government sentiment.

Wood pointed out that Stan played a role in arsons of unoccupied structures, which statistically result in very few injuries. She said there are four factors to be considered in sentencing, 1) the seriousness of the offense; 2) the need to protect the public; 3) the deterrent effect of prison on others; and 4) the rehabilitation of the defendant. She asked the court for a lesser sentence... not a downward departure, but less than the advisory range of the government. She said the Bureau of Prisons can't guarantee Meyerhoff's safety. She referenced Rule 35, to get him out of prison to Community Corrections Center. She said there's no way for the court to protect him once in prison, that the only thing to do is decrease his time or put him in lockdown. She requested less than five years. She pointed out that Jacob Ferguson was allowed out on a deal where he allegedly will plead to 1 count of arson with probationary sentence which is a huge sentencing disparity and overreach by the feds. She argued that the \$18M judgment for restitution is a heavy penalty that will hinder Meyerhoff for the rest of his life. She asked for a waiver of accrual of interest. And requested a letter from the court to the Bureau of Prisons, and to change the Criminal History category to 1 if the terrorism enhancement is applied. She also asked the court to require the US Attorney's office to write a letter to the BOP.

The government made their final comments, stating that their recommendations are not overreaching, that Meyerhoff's crimes would get a mandatory minimum of 230 years or a life sentence due to the multiple crimes and causing fear. They said 188 months accomplishes federal obligation in this case.

Stan then read a statement to the court. He apologized for his "extremist barbarity", referring to himself as an "ordinary bigot". He said the actions were counter-productive to the goal, and that "fear cannot replace discussion". He said he regretted his time in the "thuggish ELF" and said he had succumbed to "youth's weak will". He offered his "most profound apology"... sorry "in every sense of the word". He said his acts were selfish and egotistical, cowardly and arrogant. He regrets his choices. He engaged in "ELF violence for the sake of false pride", and begged for forgiveness.

Judge Aiken spoke before issuing her ruling. She referred to a Native folk tale, that says we have two wolves inside us - one good, one bad. The wolf we feed is the one that wins. She said "For a very long time you've been an evil boy." It was "dumb luck" that no one was hurt. She said, "You are not a terrorist in the traditional sense of the word", but said he'd engaged in conduct intended to intimidate or retaliate, whether government or private individual. She said he'd used his knowledge to teach others to engage in arson, and that she rejects the notion that he did not do it for personal gain. She said she doesn't believe he intended to save the environment. "True environmental activists were harmed by your actions." She said she would write any letter to help with his placement in prison. She urged him not to have cowardly (suicidal) thoughts. She reads letters from another inmate she has been corresponding with who is having a rewarding experience teaching and tutoring in prison. "Don't be a coward. Step up. Be an asset."

She then enumerated all the sentencing guidelines, with upward or downward departures (which I won't detail here because it's 3 a.m.), the application of the terrorism enhancement for Romania, Jefferson Poplar, and the West Eugene PD substation, and issued 156 months, with 3 years supervised release, and a letter to the judge every 6 months. Also added condition that he not have contact with any environmental or animal rights activists or organizations.