

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA            )  
  )  
                  Plaintiff,            )  
  )    No.: 88-00158-01-CR-W-H  
vs.                                        )  
  )  
GAIL BEYER, et al.                    )  
  )  
                  Defendants.            )

DEFENDANT BEYER'S TRIAL BRIEF

COMES NOW Defendant, Gail Beyer, by and through her attorney, Delany Dean, and offers the following trial brief with respect to issues raised by her notice to call expert witnesses Robert Aldridge and Francis Boyle. In this case Defendants stand charged with violation of Title 18, U.S.C. Section 1382, which is defined by the terms of the statute as an entry upon a missile launch facility "for a purpose prohibited by law and by lawful regulation"; and with violations of Title 18, U.S.C. Section 1361, which by its terms requires the government to prove that Defendants "willfully" injured and committed depredation against property located at the missile launch facility. It is also charged that Defendants violated Title 18, U.S.C. Section 1382 by re-entry upon missile launch facilities after having been ordered not to re-enter. Defendant Beyer intends to offer the following defenses: (1) She did not possess the requisite mental state for any of the crimes charged; (2) under the defense of necessity, Defendant cannot be held

criminally liable for her acts; (3) Defendant acted under a reasonable belief that the law permitted her to engage in the actions charged; (4) the order issued against Defendant forbidding her to re-enter Whiteman Air Force Base was not a lawful order. In support of these defenses Defendant Beyer will offer her own testimony, the testimony of Mr. Aldridge, and the testimony of Professor Boyle.

It is anticipated that Professor Boyle will testify that he is a recognized expert in the field of international law, and that nuclear weapons facilities such as the Minuteman II facility upon which Defendant Beyer allegedly trespassed are being used by the United States Government in a manner which constitutes a series of ongoing criminal acts by the United States Government. It will be the testimony of Professor Boyle that, because of the ongoing criminal nature of the United States Government's use of nuclear weapons facilities such as those involved in this case, a citizen of the United States cannot be held criminally liable for interfering with the Government's use and possession of those weapons systems. Professor Boyle will testify that under international law a citizen of the United States could be held criminally liable for cooperating with the government in its criminal use and possession of those weapons systems.

Defendant Beyer will testify that, prior to August 15, 1988, she had familiarized herself with the concepts of international law which will be described by Professor

Boyle. It will be her testimony that she had read materials and listened to lectures on the subject of international law, including a lecture by Professor Boyle, which caused her to come to the reasonable belief that the actions of which she stands accused are required, or at least privileged, by international law. It will be her testimony that she has also studied (as a layman) the nuclear weapons systems owned and operated by the United States Government as well as the policy of the United States Government with respect to present and planned future use and operation of those weapons systems. She will testify as to her reasonable belief, shared by experts and laymen alike, that the systems and policy of the United States Government with respect to nuclear weapons represents an imminent threat to her own life and property, as well as to the lives and property of every other human being on the face of the earth. She will testify that she acted in an effort to prevent that threat from being carried out. She will testify that she has explored other alternatives to the actions she took, all to no avail. She will testify that there was no other reasonable alternative to the actions she took, in view of both the immediacy and the enormity of the threat posed.

Mr. Aldridge will testify as an expert as to the immediacy and the enormity of the threat posed to Defendant Beyer and to the rest of our planet by nuclear weapons