

Closing Statements Part 1 - Attorney Sam Young, representing Kathleen Rumpf

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

These words were so central to the founders of this nation that they made them the first words of the Bill of Rights in our Constitution and refused to adopt a constitution that did not include these protections. All Kathleen Rumpf and the other defendants in this case were doing on April 22nd was exercising these fundamental rights, to speak, to peaceably assemble, and to petition their government to redress their grievances. The testimony is clear and undisputed in this case.

Kathleen and the other defendants went to Hancock Airbase on April 22nd, 2011 to speak out about an issue of national importance; the weapons that our country is using in our names. They peacefully assembled together outside of the gates of the airbase, spoke about the illegality of the reaper drone planes under international law and the fact that the drones cannot distinguish between an intended target and collateral victims. And then, clad in bloody shrouds, they peacefully, quietly, and solemnly lay down on the driveway leading to the base to symbolize the innocent victims of the reaper drones. Symbolic speech, Judge, that’s what it was. That’s what everyone recognized it to be. Then, perhaps most compellingly, the defendants attempted to carry a message to the base commander, the message sitting right behind you in fact, Judge, that they viewed the drones as illegal weapons under international laws; and the use of the drones for extraterritorial assassination as war crimes and demanded that it stopped – petitioning their government for a redress of wrongs.

What they did was pure and protected First Amendment activity. But what was the reaction of their government to their attempt to convey this message at Hancock Airbase? They sealed up the gates, they barricaded themselves behind metal bars, police tape, sheriff deputies and cars, military security, and refused to even let them approach with a petition for their own government. Worse than that, their government arrested them for the symbolic speech that they were engaging in, prosecuted them for alleged violation of the law, and now seeks to convict them – all for speaking out, for telling their government that it is committing wrongs.

The military, the police, and the prosecutors, may have not liked the message that these folks were trying to convey. You, yourself, may not like it or agree with it. It may have made them uncomfortable, it may make you uncomfortable, but that does not make it any less protected. To paraphrase Justice Brandeis in the 1927 case *Whitney versus California*, the remedy to speech is more speech, not enforced silence. What the State is seeking to do here is to enforce silence and to criminalize my client’s speech. But for the government to criminalize speech is an extremely serious and almost unheard of thing. As the Supreme Court made clear, in the case of *Brandenburg versus Ohio*, and I won’t give cites because I gave the cites in my papers, government cannot punish speech, even inflammatory speech, unless it is directed to inciting and likely to incite imminent lawless actions.

My client was not inciting any lawless action, imminent or otherwise. To the contrary, she was trying to engage her government and her fellow citizens in a conversation about a weapon whose use violates international law. She was doing that with her voice and with her body. And as both Kathleen and her mentor Ramsey Clark testified in this trial, she not only had the right but she

had the obligation under Principle 7 of the Nuremberg Principles to speak out against these violations of international law.

The Supreme Court over the years has been extremely protective of symbolic speech even when it is unpopular. The United States versus O'Brien in 1968 about the draft case; Cone versus California with the burning of draft cards; Texas versus Johnson and the United States versus Eichman in 1989 and 1990 respectively with the burning of the flag; and just this past year, Snyder versus Phelps, where the Westboro Baptist Church protested outside of military funerals. Each of these acts were unpopular, Judge, but nonetheless protected speech, and not subject to prosecutorial liability.

When you view the facts in light of these First Amendment principles there is simply no way to find beyond a reasonable doubt that my client, Kathleen Rumpf, is guilty of disorderly conduct by raising her voice and laying down her body to protest illegal and unjustified acts by her government.

Finally, Judge, looking once again at the elements of this charge. To convict her, the People must prove each and every element of the charges beyond reasonable doubt, including that she acted with an intent to cause public inconvenience, annoyance or alarm, or recklessly creating that risk. She clearly did not. She acted with an intent to call upon her government to stop killing innocents in violation of international law and to educate her fellow citizens about the illegality of the Predator Drones. She was trying to walk upstream. The People must prove that she intended to cause public inconvenience, annoyance or alarm, or was reckless as to that beyond reasonable doubt, and in the face of her testimony as to her actual intent, they simply cannot do this. In fact, there was no public presence being inconvenienced, annoyed or alarmed, only fellow protestors, who clearly agreed with the message. If the People cannot prove intent beyond a reasonable doubt, and for the reason I just stated, we forcibly contend they did not, the defendants must be found not guilty of both charges.

The People must also prove, under paragraph 5, that Kathleen obstructed vehicular or pedestrian traffic. Once again, there was no traffic of any kind to obstruct. That base was buttoned up like a military bunker on high alert. No one was coming in or out of the Molloy Road gate, not because of Kathleen and her fellow defendants, but because of a choice that the military made, and you heard Senior Master Sergeant Rhinehardt testify to that choice, to shut the gate through the conclusion of the protest. And the Thompson Road gate was open for business and operating normally. People were simply informed of the change, either by an email or a direction on the base, and directed around the corner to use the alternate route. You've heard Sergeant Rhinehardt testify this created no problem for them between the hours of 3 and 4 when they closed the gate and diverted traffic as scheduled. So how could suddenly it be a problem for them at 4:01 or from 4-4:30, when they simply continued to divert cars through the alternate gate for a few minutes longer? The fact that they chose to slightly alter their plans does not make this disorderly conduct. It was not an obstruction of traffic, and certainly not an inconvenience to anyone sufficient to turn free speech into criminal conduct.

Finally, Judge, under subdivision 6, the People must prove that she congregated with other persons in a public place and refused to comply with a lawful order of the police to disperse. As I argued previously, Judge, there is at least reasonable doubt as to the elements of a public place and whether the order was lawful. And I would cite, your honor, to the definition of a public place, under article 240 sub 1 - public place means a place to which the public or a substantial

group of persons has access, and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds, hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. From testimony, clearly this did not refer to a military base. There is at least reasonable doubt as to whether this referred to where the protest was going on. And that reasonable doubt comes from the testimony of Lieutenant Daley, as you recall, who stated he did not know where the public right of way ended and the military base began.

Finally, Judge, as to the question of whether the order to disperse was lawful. The police directives for the defendant to get up from the road were never to stop her from engaging in an act of symbolic speech which she was legally entitled and even obligated to do. If her actions were permitted by the First Amendment and required by the Nuremberg principles, then the government has not proved that the order was lawful beyond reasonable doubt.

Remember Ramsey Clark's paraphrasing of Dante towards the end of his testimony: The hottest places in hell are reserved for those who in times of moral crisis do nothing. Kathleen Rumpf was trying to do something, not for herself, but for innocent men, women and children half a world away who are being placed in danger by pilots on the other side of that gate.

On behalf of myself and Kathleen we'd like to thank you for your considerable patience and thoughtful consideration throughout this week.