

Defense witnesses describe fear at Malheur Refuge after Finicum died

By CONRAD WILSON
Oregon Public Broadcasting

The U.S. District Court in Portland was packed Monday for what appeared to be the final day of defense witnesses in the second trial stemming from last year's occupation of the Malheur National Wildlife Refuge.

The defense continued to argue the refuge was a peaceful place where people were learning about the Constitution and land rights.

Attorneys also called witnesses who spoke about what drove them to the refuge in eastern Oregon's high desert. Some witnesses for the defense said they were never prevented by law enforcement from entering the refuge. One of the FBI's informants testified her handler never told her being at the refuge was breaking the law.

Federal prosecutors, meanwhile, sharply focused their cross-examinations on the fact federal employees were not able to go to work during the 41-day armed occupation.

The government has charged Jason Patrick, Jake Ryan, Darryl Thorn and Duane Ehmer with conspiracy to impede federal employees at the refuge from doing their jobs through force, threats and intimidation. Some of those on trial have also been charged with additional felonies, like damaging federal property and weapons charges.

Defense witnesses described the night of Jan. 26 as one full of fear for those who remained at the refuge, after law enforcement shot and killed occupation spokesman Robert "LaVoy" Finicum and arrested the leaders of the occupation on their way to a meeting in John Day.

Nicholas Fisher, who said he was performing guard duty at the refuge, testified Monday that he first heard of Finicum's death while standing around a campfire at the refuge.

"David Fry said LaVoy was shot," Fisher said.

Later in the evening, Fisher said he heard a helicopter flying near the refuge headquarters and took cover under an excavator.

In a tearful testimony, at times almost speaking in a whisper, Fisher said the helicopter "was trying to get a shot on us — is what we thought."

"Was that as scared as you've ever been in your life?" asked Andrew Kohlmetz, Patrick's standby attorney.

"Yeah," Fisher said softly. Fisher testified he left the refuge on Jan. 27 and headed



AP Photo/Rick Bowmer

In this Jan. 4, 2016 file photo, Members of the group occupying the Malheur National Wildlife Refuge headquarters stand guard.

to an FBI checkpoint a few miles from the headquarters.

Michelle Kohler, Ehmer's attorney, asked Fisher if he did anything with his cell-phone.

Fisher testified he called someone, putting the phone on speaker, as he approached the checkpoint.

"I thought I was going to die," Fisher said.

Fisher took the stand wearing a red T-shirt that read "Let's give em' Hellboy," and showed a screen print of what appeared to be Ehmer riding his horse, named Hellboy. It was an iconic image throughout the occupation.

During cross-examination, Assistant U.S. Attorney Ethan Knight asked Fisher, "is that Mr. Ehmer's horse on your shirt?"

"Yeah," Fisher said.

Knight later asked Fisher to acknowledge he had no idea who flew that helicopter. Fisher agreed.

"It could've in fact been a FOX (television) helicopter from the Seattle area," Knight said.

Earlier in the trial, jurors had seen a photo of a helicopter taken by an unmanned FBI drone. Initially, the defense said it was evidence the government was using helicopters to monitor activities at the refuge, but an agent later testified it was, in fact, a television station's helicopter that entered the airspace over the refuge the evening of Jan. 26.

Daniel Ryan, defendant Jake Ryan's father, testified about his son's childhood and the family's trip to the refuge.

He said he taught Jake Ryan to use firearms for hunting and sport.

"Like most of my sons, [he] learned at a very early age," the elder Ryan said.

He also testified Jake Ryan learned about his right to bear arms while being homeschooled with his siblings.

"They learned it is a

constitutionally protected, God-given right to own firearms," Ryan said.

Occupier Testifies

Sandy Anderson, one of the final four occupiers, testified Monday as one of the last witnesses for the defense. Anderson pleaded guilty to trespassing, a misdemeanor, for her role in the occupation.

She spoke about the fear that consumed those at the refuge after learning Finicum had been shot and killed.

"Something had gone wrong with the meeting in John Day," Anderson said, recalling what she and others were hearing at the refuge Jan. 26.

She testified about moving to the west encampment area of the refuge with her husband, Sean Anderson.

"Why didn't you just leave the refuge," asked Jesse Merrithew, the attorney for Ryan.

"How could we leave safely?" Anderson replied. "We didn't know what was going on."

Merrithew asked if she was scared to leave the refuge.

"Terrified," Anderson said.

Anderson spoke about being armed while at the west encampment, which the occupiers later named "Camp Finicum."

"Yes, we always have our Second Amendment with us," she said, to laughter from the public.

Anderson testified she saw vehicles coming and going along the road. She said it was hard to tell whether cars were leaving or whether people were trying to leave and getting turned back.

Anderson said the final people at the refuge were trying to protect themselves from the FBI.

"What were you going to do against FBI armed vehicles?" Merrithew asked.

"Anything we could to stay alive," she said.

Anderson testified Ryan dug the trench to slow down the FBI and provide protection. She said the trench was for no other reason.

During cross-examination, Knight asked Anderson if she knew the federal employees at the refuge were unable to come to work because of the occupation.

"In fact, they showed up there," Anderson said.

"They showed up there?" Knight asked.

"Yes, they did," she replied.

Knight then played a recorded call from the time of the occupation with an FBI crisis negotiator and Sean Anderson. In the call, the FBI agent tells him he's going to be charged with keeping employees from showing up to work.

On the call, Sandy Anderson said, "Wait a minute, we all have done this."

Anderson testified the remaining occupiers were exhausted, noting that fatigue contributed to some of their actions at the refuge.

"You weren't too tired to shoot at an FBI aircraft," Knight said.

He then played a video in which Anderson can be seen standing at the west encampment in front of an excavator. On the video, she can be heard saying "eyes in the skies boys," followed by Sean Anderson apparently shooting at the manned FBI aircraft.

Sandy Anderson testified the sound was not of gunfire.

"I think it's the excavator making that noise," she said.

The defense is expected to rest its case Tuesday. The government plans to call two of the refuge employees as part of its rebuttal case before both sides make closing arguments.

The case could head to the jury late Tuesday or early Wednesday.

MARIJUANA: Either side can appeal commission's decision to the city council

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stop hasn't been a problem.

Nick Palazzo has co-owned and operated The Pharmacy in Astoria since 2014, and said in an interview Monday his store hasn't had any problems with minors trying to get in.

"They walk by and they don't even look in," he said. "They're in their own little world."

Even if a child did try to enter The Pharmacy, Palazzo said the store's "gatekeeper" would turn them away once they couldn't present a valid ID, in accordance with Oregon Liquor Control Commission regulations.

Palazzo said he hasn't heard any complaints from the school district or community members about The Pharmacy's location near a bus stop.

That's not to say that Pendleton is the only rural community concerned about this issue. The school board in Jewell, an small town southeast of Astoria, appealed a Clatsop County decision to allow a marijuana processing laboratory in the unincorporated community, according to *The Daily Astorian*.

Although the lab is more than 1,000 feet of Jewell School, the board and its attorney say that it's less than 1,000 feet from two school bus stops.

Back in Pendleton, some are worried about the traffic Thur's could bring to the neighborhood.

At the Feb. 16 commission meeting, city engineer Tim Simons admitted that

traffic is already a major issue on Tutuilla Road.

In an email exchange between Julie Chase of the Pendleton Planning Department and Kind Leaf Pendleton co-owner Brandon Krenzler, Krenzler provided some daily customer figures from pot shops around Oregon and Washington.

According to Krenzler, the daily rates ranged from 250-300 customers for Walla Walla Cannabis Co. to 400-500 at Oregon's Finest in Portland.

Kind Leaf Pendleton, a Pendleton marijuana store on Southwest Court Avenue, has already received planning commission approval and is waiting for licensing approval from the city before it can open.

Kind Leaf Pendleton and Pendleton Cannabis, another marijuana retailer on Southgate, have both received licenses from the OLCC.

Regardless of the commission's decision, the debate could continue.

Either side can appeal the commission's decision to the city council, and even if the opposition is successful in preventing Thur's from locating on Tutuilla, the area open back up to other marijuana retailers interested in locating there.

The commission will meet on Thursday at 7 p.m. in the council chambers at Pendleton City Hall, 500 S.W. Dorion Ave.

Contact Antonio Sierra at astieria@astoregonian.com or 541-966-0836.



Staff photo by E.J. Harris

The Maret's neighbor, Lilli Peterson, took in the Maret's three surviving dogs, Ozzy, Roscoe and Jasmine.

FIRE: Neighbor is caring for the three surviving dogs

Continued from 1A

too short and he had to attach another hose to it.

The Umatilla Rural Fire Protection District was the lead agency at the scene, and Umatilla Fire District 1, Hermiston, also responded. Steven Potts, chief of Umatilla Rural Fire, did not immediately return calls Monday.

The couple owned five dogs and five cats, Hull said, and two dogs died. No one has seen the cats, she said, so they might have escaped. A neighbor was caring for the other three dogs.

The American Red

Cross Cascades Region is providing resources for the Marets to meet immediate basic needs, including temporary housing and clothing. Hull added family and friends are working out where her parents could live after that.

The home appears to be a total loss, Hull said. Her grandmother left the home to her parents 10 years ago, and they did not have homeowners insurance and live off disability benefits. She set up an online donation account to help her parents at www.gofundme.com/grandparents-lose-house-to-fire.

HEALTH: Would keep safeguards for those with pre-existing medical problems

Continued from 1A

estimates yet, but aides from both parties and nonpartisan analysts have said they expect those numbers to be lower. Trump has said his goal is "insurance for everybody," and numerous GOP governors and members of Congress have demanded that people not lose coverage.

House Speaker Paul Ryan, R-Wis., said the bill would "drive down costs, encourage competition, and give every American access to quality, affordable health insurance."

Spokeswoman Caitlin Oakley said Health Secretary Tom Price "welcomes action by the House to end this nightmare for the American people."

Solid Democratic opposition is a given.

"Republicans have decided that affordable health care should be the privilege of the wealthy, not the right of every family in America," said House Minority Leader Nancy Pelosi, D-Calif.

More ominously for Republican leaders, there were signals galore that they faced problems within their own party, including from conservatives complaining that the measure is too timid in repealing Obama's law.

"It still looks like Obamacare-lite to me," said Sen. Rand Paul, R-Ky., one

"It still looks like Obamacare-lite to me."

— Sen. Rand Paul, R-Ky.,

of three Senate conservatives who have criticized the GOP bill. "It's going to have to be better."

The Republican tax credits, ranging from \$2,000 to \$14,000 for families, would be refundable, meaning even people with no tax liability would receive payments. Conservatives say that feature creates a new entitlement program the government cannot afford.

Senate Finance Committee Chairman Orrin Hatch, R-Utah, wouldn't rule out changes by his chamber, where moderate Republicans have grumbled that the measure could leave too many voters uncovered.

"We have a right to look it over and see if we like it or don't," Hatch told reporters.

Underscoring those worries, four GOP senators released a letter to Senate Majority Leader Mitch McConnell, R-Ky.

They complained that an earlier, similar draft "does not provide stability and certainty for individuals and families in Medicaid expansion programs." Signing were Sens. Rob Portman of Ohio, Shelley Moore Capito of West Virginia, Cory Gardner of Colorado and Alaska's Lisa Murkowski.

That nonpartisan office's projections on price tag and coverage could help win over recalcitrant Republicans or make them even harder to persuade.

To prod healthier people to stay covered, insurers would be required to boost premiums by 30 percent for consumers who let insurance lapse.

Tax increases on higher-earning people, the insurance industry and others used to finance the Obama overhaul's coverage expansion would be repealed.

In a last-minute change to satisfy conservatives, business and unions, Republicans dropped a plan pushed by Ryan to impose a first-ever tax on the most generous employer-provided health plans. Instead, a similar tax imposed by Obama's law on expensive plans, set to take effect in 2020, would begin in 2025.

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