

# Effort to disqualify anti-nuclear judge fails

By Kathy Parrish  
staff writer

A judge who favors nuclear arms control will bear charges against three peace activists.

Upset about circuit court refusal to disqualify 52nd District Judge Martin L. Boyle in a Williams International blockade case, the Oakland County prosecutor intends to ask the Michigan Court of Appeals to take him off it.

And the angry prosecution urged the Commerce Township defense supplier to go outside local courts to keep protesters away.

"There's no question in our mind that the people of Michigan won't get an impartial trial in that courtroom," said chief assistant prosecutor Richard Thompson. He said the matter might go to a federal court because of Williams' defense contracts to make cruise-missile engines.

"Under the law we have the same right as the defendants to an impartial case."

AFTER MONTHS of delays, the case stemming from the Nov. 27 to Dec. 2 blockades is expected to go to trial in August.

Movement came after Circuit Judge James S. Thorburn said Thursday that 52nd District Judge Martin L. Boyle is qualified to rule on the cases of three people charged with blocking the defense supplier's driveway.

The prosecution contends Boyle's membership in Lawyers Alliance for Nuclear Arms Control (LANAC) biases him in favor of the protesters, who object to the manufacture of cruise-missile parts.

Boyle is contact person for the Oakland County branch of the information and education group, which he says is "calculated to bring the abilities of lawyers to bear on the issue of nuclear escalation."

"I believe in controlling nuclear arms. I believe they are out of control," said Boyle, who joined the 3,500-member national group to learn more about the issue.

Prosecutors also object to some of his decisions — especially dismissal of some of their charges on the grounds of double jeopardy. The defendants argue they are being tried twice for the same crime.

CONCERN OVER Boyle's LANAC membership led the prosecutor's office to try to get the blockade cases into a Pontiac district court. During the

weeklong protest, the blockaders stayed in St. Vincent de Paul Church, Pontiac.

When that effort failed, the Walled Lake district judge was asked to disqualify himself. After the refusal was backed by 52nd District Chief Judge Michael Batchik, the prosecution appealed to circuit court.

It was assigned to Judge Robert C. Anderson, who said he could not impartially hear the matter. The case then went to Thorburn, the judge who issued the injunction barring trespass at Williams.

But Thorburn said nothing in the 52nd District Court record shows Boyle's political beliefs will keep him from following the law.

"THE ISSUE of nuclear arms control is a controversial subject in the United States," said Thorburn.

He added that there are "as many viewpoints on the subject as there are those who consider the topic. They range from those who are conscientious objectors on the one hand to those who would rather die a free man than live in chains," and believe in nuclear deterrence.

"All judges have personal opinions. A mere personal opinion, however, is not sufficient for disqualification. Were such the law, no case would ever proceed to trial because there would be no court available."

During the hourlong hearing, assistant prosecutor Graham Crabtree said Boyle has taken a partisan stand and even helped the defendants with their legal defense.

"He (Boyle) is politically aligned with these people and is not willing to set his political beliefs aside," contended Crabtree.

"We are not here to criticize Judge Boyle for his political beliefs. We just feel he should sit this one out."

Neal Bush, one of 20 volunteer lawyers defending the more than 40 blockaders, said Boyle has made it clear he's not for nuclear disarmament.

"There is no indication on the record that Judge Boyle will not follow the law and hasn't followed the law," he said.

THORBURN, WHO issued the trespassing injunction, is not a favorite with the defendants.

A group of their supporters held a prayer vigil outside his office after he refused to release Nagasaki Day protesters unless they promised not to return to the plant.

Monday he jailed another group indefinitely and criticized them for getting out of jail on appeal.

But Thursday, the circuit judge was just as tough on the prosecution. He stressed that Boyle gave the prosecutor's office "every opportunity to appeal" his decision.

"You would take the position any judge who expresses an opinion on either side is not qualified to be a judge," he told Crabtree.

After Thorburn's ruling, the assistant

prosecutor said he felt confident there was enough evidence to disqualify Boyle. "It's always difficult to disqualify a judge, but I feel personally there was evidence here."

But the defense was satisfied. "Like most courts, the judges out there (Walled Lake) have tried to follow the law and be fair," said Bush, who was pleased with Thorburn's ruling. "I think he gave it due consideration and I think made an appropriate decision."

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— Circuit Court Judge James S. Thorburn

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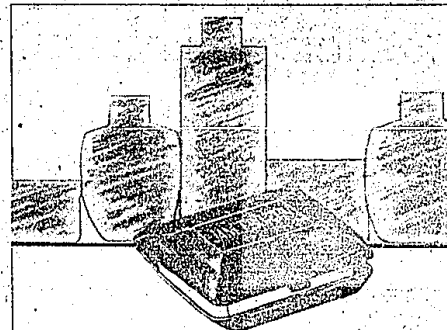
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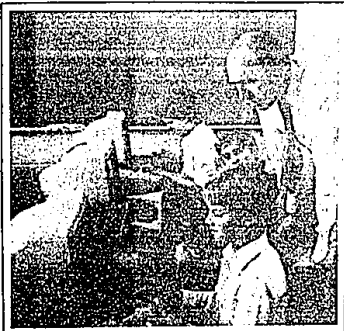
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