

## **War protesters push on with case resulting from Chabot office sit-in**

By Kevin Osborne

Photo By Mark Bealer

Attorney William Gallagher (with legal pad) asks a judge to declare Donald Rumsfeld a material witness in the trial of CityBeat News Editor Gregory Flannery (with protruding belly) and four others.

Some local anti-war protesters are hoping their upcoming trial on misdemeanor criminal trespassing charges will raise broader legal issues about making the U.S. government accountable for its actions and when it might be necessary to break the law to promote a larger good.

Although the protesters lost their legal bid last week to make former U.S. Defense Secretary Donald Rumsfeld testify in the trial, an area congressman wasn't as fortunate.

Hamilton County Municipal Judge David Stockdale denied a motion Jan. 12 by the protesters' lawyers to have Rumsfeld testify as a material witness, then also denied a motion by lawyers for the city of Cincinnati to quash a subpoena that would force testimony from U.S. Rep. Steve Chabot (R-Westwood). As a result, Chabot likely will either have to testify at the trial or answer lawyers' questions in a deposition under oath.

Seven people -- including a nun and a clergyman -- staged a sit-in Sept. 27 at Chabot's office at downtown's Carew Tower (see "Porkopolis," issue of Oct. 4). The protest was part of a national anti-war effort aimed at pressuring reluctant federal lawmakers into signing the Congressional Declaration of Peace, which calls for withdrawal of U.S. forces from Iraq by March 20, 2007, the fourth anniversary of the U.S. invasion.

Chabot, who wasn't in his office at the time, refused to sign the declaration and the protesters wouldn't leave until he changed his mind. Cincinnati police arrested the protesters and charged them with trespassing, which is punishable by up to 30 days in jail and a \$250 fine. Their trial is set for Jan. 22.

The protesters include Ellen Dienger, Gregory Flannery, Sister Mary Evelyn Jegen, the Rev. John Rich and filmmaker Barbara Wolf.

Flannery, who has a long history of social activism, is lead defendant in the case and also news editor at CityBeat; he didn't participate in the preparation or editing of this article, other than granting an interview.

Two other protesters are juveniles, and their cases are being handled separately. In one case, against a girl who is a Quaker, a magistrate dismissed the charges. In the other, a different magistrate set a trial date for Jan. 26.

William Gallagher, a lawyer for some of the protesters, had argued that Rumsfeld's presence was part of a legal strategy to present a "necessity defense," which states that

defendants violated the law to save lives. The Iraq War involves "massive amounts of wasteful spending and loss of human life," Gallagher says.

"I can't think of any person better suited to answer questions about that than Mr. Rumsfeld," he says.

Critics have blasted the protesters, saying that sit-ins are an ineffective method for changing other people's views and that the effort to force Rumsfeld to testify was a publicity stunt.

"Whether or not he agrees with this president's policies is not an issue," says Assistant City Prosecutor Elizabeth Tye. "What is at issue is that Mr. Flannery trespassed at Mr. Chabot's office."

One local lawyer, who is a conservative Republican, wrote on his blog, "The necessity defense is actually a viable defense in criminal cases, but certainly is not under these circumstances."

In his ruling, Stockdale essentially agreed, stating that Rumsfeld's testimony would be irrelevant. Chabot should appear or give a deposition because he leases the property involved in the trespassing complaint, the judge added.

Flannery vowed to press ahead with the case.

"I was disappointed," he says. "We were looking forward to cross-examining Rumsfeld about the war and occupation. I think it would have been instructive for the jury to hear his testimony."

Chabot couldn't be reached for comment. In an earlier interview during his re-election campaign last fall, Chabot said he supported the Iraq War and opposed setting any timeline for troop withdrawal because it would embolden the insurgents.

"It's pretty clear that Iraq would fall to the insurgents and jihadists, who want to kill as many westerners and Americans as possible," Chabot said at the time, adding that U.S. troops must continue training and equipping Iraqi security forces for an eventual transfer of power.

A crucial question about the United States' launch of the war is whether it was a honest mistake based on faulty intelligence or, as an increasing number of observers now believe as details about behind-the-scenes talks are revealed, citizens were deliberately misled by the Bush administration to support a war it was determined to wage at any cost.

Chabot was part of the Bush push. During an appearance before a House subcommittee on Oct. 4, 2001, Chabot said, "If we are serious about ending, destroying and stopping international terrorism, we absolutely have to target Saddam Hussein."

In numerous polls, most Americans support either an immediate or phased troop withdrawal and a quick end to the war. Democrats swept to power in November's election in large part to anti-war sentiment, and many Republican lawmakers have since changed their stances and now oppose the war.

Still, Bush last week announced a plan to send 21,000 more troops to Iraq in coming months to help secure Baghdad.

Photo By Mark Bealer

Flannery says the defendants want to question U.S. Rep. Steve Chabot about his support for the war.

As Tim Grieve, a political writer for the Salon.com Web site, recently wrote, "A large majority of Americans now believe that the war itself was a mistake. Saddam Hussein didn't have any weapons of mass destruction. He had no working relationship with al-Qaeda. American troops have not been 'greeted as liberators.' "

Perhaps Americans wouldn't have supported the war from the outset if they had a better understanding of world affairs and geo-politics. After all, most Canadian and European residents -- from industrialized states that have similar cultures and national interests -- largely rejected Bush's call to war. But the blind fear and anger that many U.S. citizens felt in the weeks and months after the 9/11 terrorist attacks in 2001 created a dangerous climate of unquestioning loyalty, a trait that's anathemic to true democracy.

Chabot has ignored the growing anti-war sentiment, Flannery says. After marches, telephone calls and letters failed to persuade Chabot to change his view, the sit-in was a logical next step.

"Chabot's support of the war and occupation is at the heart of our case," Flannery says.

About whether Chabot could have a change of heart, he adds, "There's always hope. A lot of other Republicans are now turning against the president's policies."

Even if Flannery loses the case and must serve jail time, he says the effort is worthwhile.

"My point of view is our government is engaged in criminal activity (in Iraq)," Flannery says. "This war is being waged with my tax money, and I had to act. I had no choice in this. It's a matter of conscience." ©