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Judge Charles Wittenberg
Lucas County Court of Common Pleas
Toledo, Ohio

Dear Judge Wittenberg,

This letter contains the statements that I would make prior to sentencing on August 4 in your courtroom. But since some of what I have to say might influence your deliberations, it seems appropriate that I get this to you ahead of time.

The article I wrote for the Blade's Saturday Essay back in January, explaining why I painted "Troops Out Now" on the overpass was included in the official file of my case that was before you, and I noticed that you asked the potential jurors if they remembered reading it in the paper. So I won't repeat the descriptions of the casualties I treated as a hospital corpsman. As I said on the witness stand in your courtroom, those images stay with me always. As a fellow Veteran For Peace member explained to me, "You can't 'unsee' what you've seen."

I know that the young men in that Navy hospital 35 years ago, just like the young American soldiers and the civilians I met in Iraq were, and are, being killed and maimed for a preposterous lie.

On March 8 of this year, I was arrested by the U.S. Capitol Police for disrupting a House Appropriations Committee hearing for reading the names of G.I.s and Iraqis killed in this war. When the County Prosecutor read of that arrest in the Blade, he moved for a ruling that I had violated the terms of my bond. You denied his motion and I am grateful that you did.

What was not reported in that story was what I told the Appropriations Committee as the police led me away.

In a voice loud enough for every committee member to hear, I told them they were making Americans less safe, not more; that they were violating federal law¹, the Geneva Conventions and the Nuremberg Principles; waging a war of aggression; committing crimes against peace and crimes against humanity.

A chill should run through our very soul, Judge Wittenberg, as we remember when those words were first used to indict another nation's war making, a nation over which we once sat in judgment. Indeed, U.S. Supreme Court Justice Robert H. Jackson, the chief prosecutor at the Nuremberg Tribunals, acknowledged clearly in his opening statement, "...let me make clear that while this law is first applied against German aggressors, the law includes, and if it is to serve a useful purpose it

¹ USC § 2441 War Crimes

must condemn aggression by any other nations, including those which sit here now in judgment.”²

Judge Wittenberg, by the very action which brought me before your court you know that I oppose the war in Iraq. But it is more than just opposition to this war that motivated my action. I believe that as a citizen of this nation, I am complicit in the crimes of this government. Because of that complicity, I must speak out against this monstrous war in every nonviolent way possible. I must add my voice to the thousands of others trying to awaken America's conscience and bring this war to an end.

Your Honor, I also believe that every citizen of this country must look into their heart and decide if they too are complicit in their government's war making. Those who decide in the affirmative must take every opportunity to awaken America's conscience, no matter how uncomfortable it makes them. Our discomfort is hardly a match for the suffering borne by the victims of this war. We owe it to them to rise above our discomfort; to make the most of opportunities presented to us to speak out.

Judge, you have now before you such an opportunity. As D.C. Superior Court Senior Judge Stephen Milliken ruled on March 28 when we went before him for disrupting the House Appropriations Committee hearing: “Sentenced to time served;” as the jury in the “Pitstop Plowshares” case in Ireland on July 25 acquitted five activists for nonviolently disarming a U.S. Navy warplane at Shannon Airport ³; as 20 German judges sat down to blockade a U.S. Air Force base in Germany ⁴, more and more people at many levels of the world's judicial systems are taking seriously their opportunities to speak out against war.

Finally, Your Honor, it is important that I inform you of my decision to not pay further restitution or a fine in this case.

The decision to not pay additional restitution is easily explained, since the judge in the Sylvania Municipal Court has already ordered my brother to pay the entire \$3,000-plus ODOT claims it will cost to repaint the Central Ave. overpass on U.S. 23.

I have decided not to pay a fine in this case because by painting “Troops Out Now!” on the overpass I was in fact upholding international law – demanding our young men and women be brought home from what history will certainly judge to be a war of aggression.

² **Robert H. Jackson, “Opening Statement Before the International Military Tribunal”**
<http://www.roberthjackson.org/Man/theman2-7-8-1/>

³ <http://www.peaceontrial.com>

⁴ On January 12, 1987, 20 German judges were arrested for blocking the road in front of the American Air Force base at Mutlangen, West Germany. Judge Ulf Panzer stated, "Fifty years ago, during the time of Nazi fascism, we judges and prosecutors allegedly 'did not know anything.' By closing our eyes and ears, our hearts and minds, we became a docile instrument of suppression, and many judges committed cruel crimes under the cloak of the law. We have been guilty of complicity. Today we are on the way to becoming guilty again, to being abused again. By our passivity, but also by applying laws, we legitimize terror: nuclear terror. Today we do know. We know that it needs only the push of a button and all Germany, Europe, the whole world, will be a radiating desert without human life. It is because we know this that we have to act. Many of us judges have organized 'Judges and Prosecutors for Peace.' We have raised our voices in warning against nuclear death. **We have worked with local peace groups, advertised against nuclear armaments, demonstrated and submitted resolutions to our parliament...Our warnings have died away unheard. That is the reason why we today block the U.S. air base in Mutlangen. We hope that such an action will be heard more loudly than all our words before.**" (emphasis added) <http://www.nuclearfiles.org/menu/timeline/1980/1987.htm>

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Not only do I deny my action was criminal, it was done to help stop a far greater criminal action. If you agree, I respectfully ask that you sentence me to time served (January 1-2, 2006). If you do not agree, I respectfully add that you will have to put me behind bars to compel my cooperation. My mind, however, will remain free to protest the criminal systems that allow us to wage a war of aggression on Iraq.

If my decisions place you in an uncomfortable position, Judge, I apologize, just as I told jurors on July 18 after they convicted me that I regretted any inconvenience or expense the trial caused them.

Thank you for this opportunity to explain my actions.

Most sincerely,

Mike Ferner