FEDERAL AGENT PHOTOS © SHANNON BUSHMAN - PEEK PROMOTION

The Constitution? Not allowed.

Conspiracy convictions in Bundy standoff? Not a one.
By Vin Suprynowicz

A federal judge in Las Vegas declared a mistrial on April 24, 2017, in the first of three trials, in the case of six men accused of taking up arms against federal agents during the Bundy Ranch standoff in 2014, the Associated Press reports. A jury convicted two defendants—one a longtime FBI informant—on multiple counts, but could not reach any unanimous verdict against the other four, despite a thicket of dozens of overlapping charges.

U.S. District Court Judge Gloria Navarro was appointed by President Obama in 2009 after being nominated by Sen. Harry Reid, who swore vengeance on the Bundys after the Bureau of Land Management suffered an ignominious defeat at the standoff and slunk away with its tail between its legs on April 12, 2014. The judge ruled that the four men will be retried as we go to press, the same time Cliven Bundy, his sons Ammon and Ryan Bundy, and two other defendants were originally scheduled for trial.

The Bundys' trials will be pushed back for months, as they continue to languish in a federal lockup—since Jan. 26, 2016, for Ammon and Ryan, and Feb. 10, 2016, for Cliven—effectively being punished for the feds' failure to win the convictions they seek and denied a speedy trial. Needless to say, even if eventually acquitted—recall that all defendants are entitled to a presumption of innocence and the right to a speedy trial—the Bundys will never be compensated for these months of captivity, nor for any economic damage to their ranch, which of course is precisely what the feds hope for. [Check "Onslaught at Gold Butte," *RANGE*, Fall 2014, at rangemagazine.com]

In all, 17 defendants have been charged in the Bunkerville cattle-rustling standoff, which pitted ranchers, pro-land-rights protesters and militia members against the BLM and well-armed federal soldiers who wore desert uniforms and military Kevlar helmets, but ominously showed no distinguishing insignia.

The first Las Vegas jury did not convict any defendants on conspiracy charges—"viewed as a huge blow to government prosecutors who built the case to pivot on two counts of conspiracy," even the pro-BLM Associated Press admits.

Gregory Burleson of Arizona—the government informant, as reported by the *Las Vegas Review-Journal* on March 22—was convicted on eight charges, including threatening and assaulting a federal officer, obstruction, interstate travel in aid of extortion, and brandishing a weapon. Burleson had told a video crew after the standoff [after being encouraged to drink and brag] that he'd come to the Bundy Ranch to kill federal agents. But the "video crew" turned out to be FBI agents lying about their true identities, thus creating an enormous chilling effect on America's cherished freedom of the press.

"If you think every reporter you meet could be an agent of law enforcement, it really has an immediate impact on any journalist coming to try and cover that story," Gregg Leslie, legal defense director of the Reporters Committee for Freedom of the Press, explained to England's *Guardian* newspaper.

Early in the trial, FBI agents Michael Caputo and Adam Nixon took the stand and revealed—though it's not clear if they originally intended to do so—that Burleson has been an FBI informant since 2012 and had worked with the agency on other cases prior to the Bunkerville protest. Yet, as one of the "defendants," Burleson had access to all pretrial conferences and defense discussions—meaning all defense plans and strategies would presumably have been available to the FBI and the prosecution as well...surely the kind of matter an appellate

Federal agents under the direction of Dan Love point rifles at photographer who was documenting BLM activities related to confiscation of cattle at the Bundy Ranch in Bunkerville, Nev.

court might want to look at.

The other defendant convicted, Todd Engel of Idaho, was found guilty of obstruction and interstate travel in aid of "extortion."

Land Washington Does Not Own

Over a period of decades, the BLM repeatedly ordered Bundy to remove his cattle from his grazing lands, contending that the ranch is federal land. But the U.S. Constitution allows the federal government to own and wield exclusive legislative authority over the District of Columbia, and within the several states only those "places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards and other needful buildings." And the federal government can show no act of the Nevada Legislature (which came into being in 1864) authorizing a federal purchase of the land on which the Bundy family graze their cattle, nor any bill of sale, nor any record of federal property-tax payments to the state (which they would owe if they were landowners), nor any "forts, magazines, arsenals, dockyards and other needful buildings" which they have erected in the area, or which they plan to erect and could conceivably need all that land to erect.

The only federal plan for the land is to shut down all the dirt roads and declare it "wilderness" and "tortoise habitat," when, in fact, tortoises fare better on grazed land, and government agents have been euthanizing desert tortoises in Las Vegas because they've built up such a surplus of the creatures in their shelter. In other words, the federal government does not propose any use for these arid desert hills which would be anywhere near as productive (or good for the desert tortoise) as the Bundy cattle ranch—a fact which the Harry Reid appointee sitting on the bench refused to let the jury hear.

Western ranchers enter into a "grazing permit" or contract arrangement with the federal government on land where said ranchers own the grazing rights (adjudicated by the state, which has recognized Bundy's grazing rights for decades) only voluntarily. Bundy's forebears had worked that ranch since the late 1800s and had Bundy signed such a contract he would surely have been put out of business long ago, as the BLM has quite purposely put out of business every other one of the 50 ranching families who ran cattle on so-called "federal allotments" in Clark County until the early '90s. By forcing them to take their cattle off the land in the spring, the only season when cattle can be fattened on wildlands in the arid West, these ranchers became what the feds call "willing sellers."

That's why the "more than $1 million in unpaid grazing fees" which the federals claim Bundy owes is only an ever-changing estimate. No fixed figure can be assessed pursuant to any "grazing fee and permit" arrangement, since Bundy has not participated in any such arrangement for decades.

Nor can the federal government mandate such an arrangement, since it does not own

PHOTO COURTESY BUNDY FAMILY

Cliven and Carol Bundy, before 18 months in jail pending trial. Cliven and sons "frighten" heavily armed federal agents.

the land, it has no power to force him to sign anything, and imposing such a financially crippling "agreement" without his consent would bankrupt the ranch within a year and thus constitute a "taking without just compensation." That's illegal under both Nevada and federal law.

So the Bundy family famously issued their social-media battle cry in spring 2014 (the worst possible time for the BLM to arrange to round up his cattle, since mortality of newborn calves was certain), leading hundreds of supporters from around the nation (including members of several militia groups) to converge on the ranch about 70 miles northeast of Las Vegas.

After the BLM abandoned the roundup —thus demonstrating that citizen militias can indeed defend our liberties without firing a shot—Cliven's sons Ammon and Ryan Bundy traveled to Oregon to draw attention to the plight of another ranching family, the Hammonds, facing a similar pattern of federal harassment. Ammon Bundy and several companions were peacefully arrested on Jan. 26, 2016, at a traffic stop after leaving their temporary home at the seasonally abandoned headquarters building of the Malheur National Wildlife Refuge near Burns. They were en route to a public meeting where Ammon was scheduled to speak. Another vehicle in the convoy fled the scene, until it encountered a roadblock—on a blind curve and out of cell phone range—where FBI agents and Oregon State Patrol troopers shot and killed LaVoy Finicum, wounded Ryan Bundy, and terrified two women, including a teenage girl. On Oct. 27, 2016, an Oregon federal jury in Portland acquitted all the defendants—Ammon and Ryan Bundy and five others—but none of the arresting officers who shot and killed Finicum in the inept ambush scheme has even faced charges.

No arrests were made in the Bundy Ranch case until after the Oregon siege ended, the wire service notes.

The [heavily armed] BLM and federal friends abandoned their roundup of Bundy's cattle because they were "afraid," federal prosecutors told the Las Vegas jury. They said law enforcement officers were surrounded and outgunned in a dusty arroyo beneath Interstate 15 where they had penned the cattle. Of course, this contradicts statements that a BLM spokesman made that day, that they were preparing to release the cattle within hours—lending credence to what the Bundy family told me, that they believe the BLM was simply lying and stalling for time while awaiting reinforcements from Las Vegas, reinforcements that never arrived.

Also, since no one would agree to sell the BLM feed for its rustled cattle, or to illegally haul its rustled cattle over state lines, it's clear the feds faced other urgent reasons to act before their rustled cattle started simply dropping left and right. (See Thomas Mitchell, https://4thst8.wordpress.com/2014/04/25/why-did-the-blm-really-release-bundys-cattle/.)

At the first trial, that didn't include any Bundys, defendants said they were moved to join Bundy after seeing Internet images of officers throwing an elderly woman to the ground, setting dogs on one of his sons, and

shocking protesters with stun guns, the AP reports. No information was presented in court to explain what led prosecutors to file charges against these six men, out of the hundreds of protesters at the Bundy Ranch.

Constitution Not Allowed In Her Courtroom

"Defense lawyers attempted to cast the case as a constitutional issue and said their clients were exercising their First Amendment right to assemble and Second Amendment right to bear arms," according to Associated Press reports. But Judge Navarro "would not allow the defense to argue about constitutional protections to the jury."

Navarro also prevented the defense from calling a string of witnesses to testify about what happened in the run-up to the standoff, ruling that they could only testify about what happened on the final day. This is like allowing testimony in a trial of our B-29 bomber crews for the nuclear bombing of Japan in 1945 without admitting any testimony about Pearl Harbor, the rape of Nanking, the Bataan Death March, or any other behavior of the Japanese armed forces from 1937 through July of 1945.

"That left lawyers chipping away at the conspiracy charges, which make up the core of the government's case," the AP reports. In other words, they were left with no real defense other than seeking "to establish the six men acted independently from one another and without coordination from the Bundys."

There's an easy solution to this kind of railroad job. If today's "conservative, constitutionalist" Republican Congress were worth a fraction of what we pay them in salaries and bribes (pardon me, "campaign contributions"), it would simply enact a law declaring that, since no criminal statute is valid unless it's constitutional—and every adult American is fully qualified to read and comprehend the Constitution (or it would be void for incomprehensibility and the government would have to disband)—no judge in America may bar the defense in any case from citing the language of the Constitution and its Bill of Rights as an element of the defense to a jury at trial.

Defendants must also be allowed to cite the Federalist Papers and other documents clarifying what the Founders meant by these provisions. Congress could simply order by law that if any judge can be shown to have barred a defendant or his or her attorneys from free use and citation of these vital safeguards of our liberties, such judge shall be removed from the bench within 72 hours, and his or her federal pay and benefits permanently ended. Whereupon such former judge shall be brought before the first available grand jury, to consider whether such former judge shall be indicted for depriving a citizen of his or her civil rights under color of law.

Why is this important? The prosecution argues it's illegal to brandish "assault-style weapons" against armed federal agents. Assault weapons are short rifles with a selector switch capable of changing them from semiautomatic to full-automatic fire. There were plenty of assault weapons present in the final days of the standoff in Bunkerville, but none were possessed by the cowboys. Every single one was in the possession of a

government agent or sniper, who brought plenty and pointed them at the cowboys and militiamen, which the federals define as "brandishing."

So why are none of those federal agents on trial? In Federalist No. 46, published Jan. 29, 1788, by the father of the Constitution, James Madison, under the pseudonym Publius, the president-to-be sought to assure skeptics (led by the great Patrick Henry) that the people need never fear being stared down by armed federal forces sent into their states to intimidate them or endanger their free use of their own lands and property.

Why? Madison promises that, at any point, the maximum force that can be brought to bear by the government to enforce its mandates is but a small fraction (six percent) of the might of the militia. He writes:

'A Militia...of Citizens With Arms In Their Hands'

"Let a regular army, fully equal to the resources of the country, be formed; still...the State governments, with the people on their side, would be able to repel the danger." Basing his calculations on a national population of about four million—1.3 percent of today's 320 million—Madison figured the central government could never field an army of more than 30,000.

"To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties.... It may well be doubted, whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops...."

Americans need never fear federal tyranny because they have "the advantage of being armed, which the Americans possess over the people of almost every other nation," Madison added.

Does that sound like the father of the Constitution thought it should be "illegal to brandish assault-style weapons against armed federal agents" if they came into our states to attempt to take our land and cattle, which they do not own?

Does it sound like the father of the Constitution believed federal judges should be allowed to forbid defense attorneys from placing copies of said Constitution with its Bill of Rights in the hands of every juror, reading it aloud in the courtroom and explaining how its guarantees of liberty and restrictions on federal power apply to the case and the charges and the statutes at hand—especially if the charges involved a militia standing up to federal troops?

Or is it more reasonable to assume that retaining the power to act the way the cowboys acted in Bunkerville is precisely the reason we were guaranteed the central government could never "infringe our right to keep and bear arms"? And that "making the BLM agents afraid" to steal anyone's cattle—making them slink away in humiliation—is precisely what James Madison was telling us the militia was expected to do, could do, and would have every right to do? ■

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For more information and to help the Bundy family, go to bundyranch.blogspot.com.

To help the Hammond family, go to www.freethehammonds.org.