

Koblenz Regional Court

In the criminal case against John Michael LaForge
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20357 Hamburg
001-715-491-3813

3 Cs 2010 Js 60864/18

for trespassing

Dec 9, 2021

To the Court:

In my trial testimony of 31 May, and in expert declarations submitted in evidence, I presented a referenced and detailed argument of how attempting to stop the criminal planning for, and threat to commit, Nuremberg crimes using the U.S. nuclear weapons at Büchel air force base (often called “nuclear deterrence”), provides me with a legitimate defense against the charges here. I explained the extenuating circumstances which prove that I lacked any criminal intent in my attempt at crime prevention upon entering the Büchel air base. Because my argument and evidence did not appear to convince the trial court that Buchel’s nuclear attack plans are criminal acts, I have asked that experts in international law and nuclear risks be allowed to testify here today.

The reason that the nuclear attack threats made by the personnel and machinery of the nuclear weapons base Büchel are criminally outlawed is that the inevitable and intentional effects of the detonation of hydrogen bombs are well known. As the Tlatelolco Treaty of 1967 explains, nuclear weapons “effects are suffered, indiscriminately and inexorably, by military forces and civilian populations alike, [and] constitute through the persistence of the radioactivity they release, an attack on the integrity of the human species and ultimately may even render the whole earth uninhabitable.” Deliberately planning to cause these effects is a criminal act prohibited by treaties binding on the governments of Germany and the United States.

In its judgment of conviction of June 24, 2021, the Cochem Court did not directly consider the substance of the testimony or evidence I presented regarding the ongoing criminal actions underway at the nuclear weapons base Büchel. I have appealed the conviction because I have a positive defense of crime prevention in this case under international law.

In its June 24 judgment the court misstated the reasons for my gaining entry to the nuclear weapons base. The court noted that, “Justification on the grounds of self-defense ... is excluded for legal reasons with regard to both acts.” Nowhere in my testimony or submissions did I explain my actions as “self-defense.” Rather I explained that crime prevention was my reason for entering the base in both cases.

The court’s judgment asserts, “An unlawful attack is not present in each case.” This conclusion is another mistaken reference to a justification of “self-defense,” and it fails to address my trial testimony in which I explained my action as an attempt at crime prevention in order to stop the *criminal planning and preparation of attacks* with U.S. nuclear weapons which was then ongoing at Büchel air base. This unlawful planning and preparation is a criminal violation of international laws, treaties and agreements including the Hague Conventions, the Geneva Conventions, the Nuremberg Charter, Nuremberg Judgment and Nuremberg Principles, as well as the Treaty on

the Non-proliferation of Nuclear Weapons, which Germany and the United States are obligated to uphold under their federal constitutions.

As my counsel has noted, by stationing U.S. nuclear weapons in Büchel, Germany is in violation of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which is regarded by the government as international treaty law, to be applied domestically under Art. 59.2 of the Basic Law. And, under Art. 20.3 of the Basic Law Germany's courts are bound by this treaty without exception. Furthermore, the stationing of U.S. nuclear weapons here violates Art. 3 of the Two-Plus-Four Treaty, or Final Settlement Treaty, in which Germany renounced the possession of nuclear weapons and reaffirmed its commitment to the Nonproliferation Treaty. Additionally, the 1996 Advisory Opinion of the International Court of Justice (ICJ) unanimously found: "There is an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control." [1]

Germany and the United States are parties to the Charter of the United Nations, which has been adopted as a Treaty. And treaties are recognized as the supreme law of the land in the U.S. Constitution at Art. 6, and in Germany's Basic Law at Art. 25.[2] Under Article 93 of the UN Charter, all member states are parties to the Statute of the International Court of Justice (ICJ), which has also been adopted as a Treaty. The ICJ is the principal legal organ of the United Nations, and its Article 38 is understood as the most authoritative inventory of the sources of International Law. Fundamental to my defense is that the Nuremberg Charter was elevated to the status of international treaty law by Article 38 of the Statute of the ICJ.[3]

In order to end its open violations of the nonproliferation treaty and its binding obligations under the International Court of Justice, Germany must have the nuclear weapons withdrawn.

The weapons now stationed at Büchel are the 170-kiloton B61-3 bomb, and the 50-kiloton B61-4 bomb,[4] each four to fourteen times the force of the Hiroshima bomb. I quote from a U.S. judge regarding the threat to use such bombs. In the 1985 *Jarka* case of nuclear weapons protesters in Illinois, Judge Alphonse Witt instructed the jury saying this: "The use or threat of use of nuclear weapons is a war crime or an attempted war crime because such use would violate international law by causing unnecessary suffering, failing to distinguish between combatants and noncombatants, and poisoning its targets by radiation." [5] Significantly, Judge Witt explicitly noted that the *threat to use nuclear weapons is itself a crime*.

I intervened at Büchel July 15, 2018 and August 6, 2018, for the purpose of stopping the ongoing international criminal activity precisely identified by Judge Witt, namely Nuremberg Crimes against Peace, Nuremberg Crimes against Humanity, and Nuremberg War Crimes.

The ghastly effects of hydrogen bombs are well-known to be massacres, caused by the weapons' uncontrollable, indiscriminate, city-size blast destruction, ferocious mass fires, and vastly widespread radiation burns, and radiation-related disease and genetic damage.[6] Deliberately planning to cause these effects is prohibited under the Nuremberg Charter, the Nuremberg Tribunal, and the Nuremberg Principles which are binding on Germany and the United States.

To prevent a repetition of the monumental horrors of the Nazi era, international law was fiercely strengthened at Nuremberg. Since the establishment of the Nuremberg Charter and Principles, it is a crime to participate in the "planning and preparation" of "a war in violation of international treaties, agreements, or assurances", including the massacres caused by nuclear weapons attacks.[7] On Dec. 11, 1946, the United Nations unanimously reaffirmed, in Resolution 95(1),

the principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgments of the Tribunal. From 1946 on, not only was the *commission* of indiscriminate destruction unlawful. Since then, the *planning* of mass destruction is a criminal conspiracy *before the fact*.

My attempt at crime prevention in these cases was also made clear in the statement that I carried into the nuclear weapons base on July 15, 2018, and which was submitted in evidence to the trial court. The statement which I read to personnel at the base explains that the ongoing and regularly rehearsed planning and preparation of Nuremberg crimes using nuclear weapons are criminal acts being committed at the Büchel nuclear weapons base that I wished to stop in both instances.

The court's June 24 judgment in this case says: "In order to avert real or perceived dangers of politics, the commission of a criminal act cannot be considered appropriate, since the deliberate violation of norms as a means of a minority to influence the public will-forming process is utterly incompatible with the basic principles of democratic law." Here the court appears to deny the existence of common "affirmative defenses" against criminal charges, defenses that establish a reasonable excuse or justification and free the accused of guilt. These defenses include self-defense, defense of others, duress, coercion, necessity, choice of evils, crime prevention, prevention of a public catastrophe, privilege under international law, mistake of law, etc. The June 24 judgment misconstrues the defense I presented at trial, which was not that I wished to avert "dangers of politics" but to stop ongoing international criminal violations of the Nuremberg Charter, Judgment and Principles.

The court's statement above also appears to deny the long history of human rights movements, which for centuries have practiced civil resistance in order to bring government wrongdoing to an end. Taken to its logical conclusion, the court's conclusion would even deny the legitimacy of resistance to Hitler's fascism, under which the 3d Reich first normalized its monumental crimes, codifying them in law before carrying them out. This legalized criminality resulted in the prosecution of German judges at Nuremberg, judges who had acted in full compliance with norms of domestic law but in disregard of the rules of international law forbidding war crimes.

By way of analogy, a fire fighter who breaks down a door and rushes into a burning building to save someone is not charged with "trespass" or "damage to property." The damage is excused because of the greater good in seeking to prevent or avoid harm to persons inside.

But what of a fire not yet burning but one that is planned, rehearsed, premeditated, and intentionally set to ignite with the heat, blast and radiation of a thousand suns? What if the premeditated fire would incinerate a city of 10 million people, or 20 cities — one each for the 20 US hydrogen bombs at Büchel? If ordinary arsonists were caught planning and preparing such a crime, no court would find fault with people intervening to stop them. Nuclear weapon attack plans, known as "nuclear deterrence," are likewise inchoate crimes because they are based upon a credible threat to do something that has been illegal and criminal since at least the time of the Nuremberg Charter: the mass extermination of civilian populations. The judgment of June 24 says my actions could not be expected to have had the "immediate" success that is required to justify or excuse the actions. This demand for instant success is never made of firefighters or other crime fighters, who must confront fires and crimes with intervention in order to save lives, even without guarantees of immediate success. My May 31 trial testimony spoke directly to this fact.

German courts have held that the planning and training for nuclear attacks using the U.S. nuclear weapons at Büchel, are not a “sufficiently concrete danger”, are a “solely abstract possibility,” and therefore not an urgent enough crime to require civil intervention on my part.[8] I believe this position is a misstatement of fact, and a willful denial of the present-day nuclear attack policies, including “first-strike” attack plans maintained by NATO[9], policies that have caused hundreds of near nuclear attacks by accident, miscalculation, and mistake. During just a single 18-month period in the 1980s, the North American Aerospace Defense Command experienced 151 false alarms, four of which were serious enough that U.S. B-52 bomber crews and Intercontinental ballistic missile crews, were placed in alert. (New York Times, October 10, 1981, p. A10.)

Further, the journal *Bulletin of the Atomic Scientists* has this year publicly set its “Doomsday Clock” to “100 seconds to midnight,” and have called the risk of nuclear war greater now than it has been since 1947. The clock is the international scientific group’s best assessment of the current danger of an outbreak of nuclear attacks.[10]

The question of the “concrete danger” of nuclear war was part of a 1984 trial where I was charged with damage to computers being made for nuclear missile submarines. When the public prosecutor said I could not prove that the danger of nuclear war was “imminent”, the presiding Federal District Court Judge Miles Lord interrupted him in mid-sentence and said, “He doesn’t have to prove ‘imminence.’ We could all go at any minute.”[11]

The allegations against me for trespassing are trivial to vanishing when compared to the routine, ongoing criminal conspiracy to commit mass destruction using nuclear weapons, which is practiced regularly at the Büchel air base.

Regular planning for and rehearsal of attacks with the nuclear weapons at Büchel are conducted by German Tornado jet fighters of the 33rd Fighter-Bomber Wing and the U.S. Air Force’s 702nd Munitions Support Squadron, as is often reported. For example, NATO announced on October 18, 2021, the start of its nuclear attack “exercise” named “Steadfast Noon.” German Tornados participated as usual. According to NATO’s statement, “Steadfast Noon involves training flights with dual-capable fighter jets,” meaning jets that carry nuclear weapons. “This exercise helps to ensure that NATO’s *nuclear deterrent* remains safe, secure and effective.”[12] (Emphasis added.) Likewise, news reports from October 2020 declared: “NATO Holds Secret Nuclear War Exercises in Germany;” “German Air Force training for nuclear war as part of NATO;” and “NATO Holds Secret Nuclear War Exercises in Germany.” From 2017: “NATO nuclear weapons exercise unusually open.” In 2015: “NATO nuclear weapons exercise Steadfast Noon in Büchel.”[13]

U.S. and German militaries also prepare for attacks using their nuclear weapons using educational courses at the Defense Nuclear Weapons School. This school operates a branch in Germany for German pilots at the Ramstein air force base.[14] According to its website, this school “is responsible for delivering, sustaining and supporting air-delivered nuclear weapon systems for our warfighters ...every day.” But the hydrogen bombs at Büchel can only produce uncontrollable, indiscriminate and unnecessary mass destruction by heat, blast and radiation.

Tornado fighter jet rehearsals of nuclear attacks, and air force schools teaching the “air-delivery” of the hydrogen bombs in Germany, are precisely the planning and preparations that Nuremberg law was designed to prohibit.

In its June 24 judgment the court quotes the Koblenz court in urging me and similar defendants to protest in other ways, writing: “[T]hose responsible for preventing or averting the danger are to be urged to take steps to avert the danger by means of striking, high-profile measures.” And this court has stated that more “suitable, appropriate means of averting a danger” — alternative to violating the trespassing law — are available to me.[15]

Of course, the alternative means of protest available have been practiced by me and millions of others for decades, and can be shown to have been exhausted with respect to nuclear weapons. The world knows that ordinary political, social, religious and educational efforts to abolish nuclear weapons have failed for 76 years. To long-time campaigners, these conventional means may now even appear naïve.

For example, despite overwhelming public support for the removal of the U.S. nuclear weapons from Germany, including the Bundestag’s cross-party resolution of 26 March 2010 calling for the government to negotiate the removal of the weapons, no progress has been made. In fact, costly plans are now underway to tear up the 2010 mandate and replace the existing U.S. B61-3 and B61-4 nuclear weapons in Germany with brand new H-bombs known as B61-12s beginning as soon as 2024. It appears that the “suitable, appropriate” means of ousting Germany nuclear bombs have been nullified if they were not a ruse.

Additionally, nuclear lawlessness was practiced by the U.S. government when it deployed Pershing II and Cruise missiles in Germany in the 1980s in violation of the Non-Circumvention Clause, Art. 12 of the SALT II Treaty. More recent internationally criminal actions by the United States include the 1999 bombardment of the former Yugoslavia done without NATO Charter “Article 5 authorization”; the 2003 bombardment and invasion of Iraq done without UN Security Council authorization; the officially sanctioned torturing of detainees in Afghanistan, Iraq, Guantanamo Bay, and elsewhere; and the Jan. 3, 2020 drone strike assassination in Iraq of Iranian Major General Qasem Soleimani, and nine other dignitaries.

All of these criminal acts were done in flagrant violation of the UN Charter, the Geneva Conventions, and the U.S. Constitution. With so much evidence of unprovoked military aggression and international lawlessness by the U.S. government — which has resulted in the deaths of up to one million civilians from conventional weapons of war — I believe it was reasonable, suitable and appropriate to nonviolently attempt to stop the joint German/U.S. operations at the NATO air base Büchel — before their nuclear weapon attack preparations take a similar turn.

The Court’s admonitions about more suitable, appropriate ways of demanding the removal of the nuclear bombs ring false and quaint, considering that I am a life-long student of the nuclear war system and its criminal insanity. The court suggests trying other “means of striking, high-profile measures” to promote the effort, by which it implies speeches, marches, rallies, research, journalism, media advisories, book publishing, and lobbying lawmakers, etc. A review my work for over 40 years shows that I’ve steadfastly employed them all, that such ordinary means can’t succeed, and that more robust interventions are required.

In 1996, I was a paralegal assistant to two activists charged with sabotage for closing down the Navy nuclear submarine transmitter in Wisconsin. They were found “not guilty” after experts, including a retired submarine commander, explained nuclear attack plans, the effects of nuclear weapons, and the laws that forbid planning mass destruction. In a 2004 case, a jury found me and three others “not guilty” of trespass charges like the ones here. We convinced the jury that

international law gave us the legal right to ignore police orders, while demanding to see the manufacturer of poison “depleted uranium” munitions. In 2017, the adoption of the Treaty on the Prohibition of Nuclear Weapons confirmed and emboldened my position regarding the criminality of nuclear weapons threats. These not guilty verdicts and the new nuclear ban treaty convince me that the law is on my side, and to keep pushing the courts to recognize, obey, and enforce the law.

I believe that using reasonable, nonviolent means to personally inspect, investigate, raise an alarm over, interfere with, and to stop violations of international law enacted to prevent mass destruction — even at the cost of breaking petty domestic statutes — is to obey and respect the law of the land. It was not “criminal” for me to nonviolently gain entry to Büchel air base, because I did so for the lawful purpose of stopping ongoing U.S. and German crimes. I submit that citizens, who become aware of our governments’ demonstrated criminal readiness to commit mass destruction with nuclear weapons, are obligated to take whatever nonviolent action they can to help bring these crimes to an end.

Everyone who is aware of these outrages, including the officers of this court, must finally refuse to tolerate, condone, ignore or excuse the criminal planning and preparation of genocidal atomic violence that is going on here in Germany. ###

JOHN M. LaFORGE, 9 December 2021

[1] International Court of Justice, Advisory Opinion, July 8, 1996, § 105 (2) F

[2] Article 6 of the U.S. Constitution states: “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” Article 35 of the German Basic Law states: “The general rules of international law shall be an integral part of federal law. They shall take precedence over the laws and directly create rights and duties for the inhabitants of the federal territory.”

[3] Article 38 of the Statute of the International Court of Justice provides: “The Court, whose duty it shall be to decide disputes submitted to it in accordance with international law, shall apply: the general or special international conventions establishing rules expressly recognized by the disputing States; international custom as evidence of a general practice recognized as law; the general principles of law recognized by civilized nations; subject to the provisions of Article 59, the judicial decisions and the teachings of the most qualified publicists of the various nations as aids in the determination of the rules of law.” (<https://www.icj-cij.org/en/statute>)]

[4] “U.S. Nuclear Forces 2020”, Hans M. Kristensen & Matt Korda, Bulletin of the Atomic Scientists, Nuclear Notebook, published online: 13 Jan. 2020, pages 46-60, <https://doi.org/10.1080/00963402.2019.1701286>; and HM Kristensen and M Korda, “Tactical Nuclear Weapons, 2019,” BAS, Vol. 75, No. 5 (2017), pp. 252–261; and (B61 nuclear weapons: [https://de.wikipedia.org/wiki/B61\(Kernwaffe\)#B61-7](https://de.wikipedia.org/wiki/B61(Kernwaffe)#B61-7)

[5] Judge Witt, People v. Jarka, No. 002170, Circuit Court of Lake County, Waukegan, Illinois, USA, 1985

[6] Dozens of authoritative legal declarations have found that any use of nuclear weapons would kill hundreds of thousands if not millions of men, women and children and constitute grave violations of international law, including: the UN International Court of Justice, in its July 8, 1996 Advisory Opinion; the

UN General Assembly “Declaration on the prohibition of the use of nuclear and thermonuclear weapons”, Resolution 1653, of Nov. 24, 1961; and the 2017 Treaty on the Prohibition of Nuclear Weapons which entered into force January 22, 2021.

[7] Charter of the International Military Tribunal at Nuremberg, the London Agreement, Aug. 8, 1945, 59 Stat. 1544, E.A.S. No 472, 82 U.N.T.S. Yearbook of the International Law Commission, 1950, Vol. II, para. 97. Principle VI

[8] Zimmerman, judge, 5 Ns 2010 Js 60894\18, citing BGH 19, 371

[9] Secretary General Jens Stoltenberg said Nov. 3, 2021 at the Nuclear Policy Symposium NATO is responding to growing nuclear threats. “We do this by keeping our nuclear deterrence strong, but we must continue to adapt, and enhance the credibility and effectiveness of our nuclear capabilities.” https://www.nato.int/cps/en/natohq/news_188247.htm

[10] “It is 100 seconds to midnight,” 2021 Doomsday Clock Statement, BAS, Jan. 27, 2021, <https://thebulletin.org/doomsday-clock/current-time/>

[11] United States v. LaForge and Katt, U.S. Federal District Court, District of Minnesota, Fourth Division, cr. 4-84-66, trial transcript.

[12] Hans Kristensen, “NATO Nuclear Weapons Exercise Over Southern Europe,” <https://fas.org/blogs/security/2021/10/steadfastnoon2021/>; Oct. 20, 2021

[13] “NATO Holds Secret Nuclear War Exercises in Germany, Ignores Turkey,” Oct. 15, 2020, <https://see.news/nato-secret-nuclear-war-exercises-germany-ignores-turkey/>; “Stop ‘Steadfast Noon’ Nuclear War Exercise Now!” Oct. 14, 2020; 2019 “Secret nuclear weapons exercise ‘Steadfast Noon’”, <https://www.bundeswehr-journal.de/2019/geheime-atomwaffenuerbung-steadfast-noon/>; 2017, “NATO nuclear weapons exercise unusually open,” <https://www.bundeswehr-journal.de/2019/geheime-atomwaffenuerbung-steadfast-noon/>; 2015, “NATO nuclear weapons exercise Steadfast Noon in Büchel”, <https://augengeradeaus.net/tag/steadfast-noon/>

[14] See U.S. Air Force Nuclear College site: <https://cs3.eis.af.mil/sites/OO-AQ-MC-95/default.aspx>

[15] OLG Koblenz, decision, 09.04.2020, 4 OLG 6 Ss 35-37/20, where the court held, “Actions of the defendants are also not a suitable, appropriate means of averting a danger.”