



The Activist Files Episode 34: Criminalizing Black protest - When we resist

Chandra Hayslett:

Welcome to the activist files the Center for Constitutional Rights podcast. I'm here with Anne Rothfus, director of the Louisiana Bucket Brigade, Pastor Gregory Manning, head of Broadmore, community church, in New Orleans, Louisiana, and a member of the coalition against Death Alley and Pam Spees, senior staff attorney at the Center for Constitutional Rights, who was the lead attorney on our anti environmental racism work. They are joining me to talk about their experiences with being labeled and charged with terrorism, for bringing attention to the pollution and environmental racism in Death Alley, formerly known as Cancer Alley, which is an area along the Mississippi river between Baton Rouge and New Orleans and the river parishes of Louisiana, which contains numerous industrial plants. Welcome.

Anne Rothfus:

Thank you.

Pam Spees:

Thank you.

Chandra Hayslett:

So Ann, let's start with you. You were charged in June of 2020 with terrorizing related to a nonviolent protest action. Can you walk us through those events that led to those charges?

Anne Rothfus:

Yeah. The short story is that we were arrested in retaliation for standing with a black community that's about to be wiped off the face of the earth by Formosa Plastics. That's a short story actually, thanks to the Center for Constitutional Rights we had a great victory in court and the next day, actually we were informed that there was a warrant out for our arrest. And that was a pretty clear line for me and for my coworker who was also charged. It was pretty obvious that they were angry about losing and so they tried to have us thrown in the slammer, charged as terrorists.

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Anne Rothfus:

But the longer story, the longer version is that Formosa Plastics is a company that's based in Taiwan and the state of Louisiana regularly travels around the world to lure companies, not just to our state, but really to the African-American communities in our state to build there in a place where they think that they can get away with it. Places and communities where they think they can build and not have any push back from the local population. And of course in this case, they were dead wrong.

Anne Rothfus:

There's been a great movement, led by Rise St James and Sharon Levine and the Bucket Brigade. And my organization has joined with Rise St. James, to stand up and protect this community, also called St. James in Louisiana from Formosa Plastics. Formosa Plastics would be one of the largest plastics plants in the world. And when you look at the situation, what you see is a huge plastics plant versus a historic African-American community that was founded by enslaved people who fought for and won their freedom. Which side are you going to be on? If you look at the area of St James, there's a free town there. And it exactly lines up with where the free town was in the days after emancipation. So the historical roots are very clear as is the threat to this community. So a community that survived slavery survived, you know, the lynching period, the theft of black land has made it this far is now threatened by what? By the petrochemical industry to be sure, but also by this cadre of lobbyists, by our own elected officials. And so we were arrested essentially for bringing attention to the fact that there are lobbyists and officials who are trying to wipe black communities off the map in Louisiana at the very time that the permits were being considered for, Formosa Plastics.

Anne Rothfus:

So the air permits to be able to operate a judge in the state of Texas ruled that Formosa Plastics in that state was guilty of violating the Clean Air Act. There was a settlement for the largest fine in Clean water Act history, right? \$50 million. So this enormous fine, this enormous, you know, penalty that Formosa has to pay is taking place in the state next door to us at the very moment that our state is pondering this permit. And we knew that our state was going to pretend like it never happened, right. They were going to put their heads in the sand, keep their faces in the files, never just look next door to this horrible crime really that's happening in Texas. And so we felt it really important to bring that in a strong way to people's attention, this \$50 million fine. And so we were glad to get all the evidence from that trial, Diane Wilson, who was one of the lead plaintiffs, really the engine behind all of that great work to get the \$50 million fine. She had gathered plastic pellets called nurdles. She'd gathered plastic pellets, she and her neighbors for a long period of time that were used as evidence in this trial. So we trucked those plastic pellets here. We brought them to the Louisiana department of environmental quality, and we also brought them to the homes of people we thought should know about this, right?

Anne Rothfus:

A guy who's a PR flack for industry and has been forever the head of the Louisiana Oil and Gas association and a lobbyist for the Louisiana Chemical Association, as well as a lobbyist with the Louisiana Association of Business and Industry. So we had packages of these plastic pellets, which again, Formosa Plastics has spilled all over Texas all over the world, really. We brought them to

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their doorstep with a note that said, you know, you're, this company has spilled these all over Texas, call our lawyer, but please rethink this facility. Right? And that was the so-called crime. That was the action for which we were pegged as terrorists for delivering their own product back to them. Of course, the irony is that they've spilled it all over Texas. You know, who's the terrorist?

Chandra Hayslett:

Were you surprised at the charges? I mean, I'm sure when you were trying to bring attention to the pollution by delivering the nurdles, what were you thinking was going to happen? Did you think it would go as far as it did with the charges?

Anne Rothfus:

No, we of course had prepared beforehand and done our homework to see what the range of charges might be. And the worst one we could think of was littering, right? I mean, which, and we weren't even littering, but that's how minimal what we did was, Right? We, again, simply deliver their product in a tidy little box back to them.

Chandra Hayslett:

That's incredible that you were really just showing them that you left this all over Texas. It's, left it all over the world, it's probably going to be left over Louisiana, but you were charged with terrorism. So to your point, who's the terrorist and the situation-

Anne Rothfus:

Exactly. And again, you know, of course the charges were really frightening, but right away you think who is, who is my legal counsel and the fact that we knew we had the Center for Constitutional Rights behind us, made all the difference in being able to face these charges with power. Right? To be able to turn it into a powerful moment for ourselves.

Chandra Hayslett:

Thank you. So pastor Manning, you were charged in October of 2019 with a felony for allegedly inciting a riot. Can you walk our listeners through events of that day and what happened?

Gregory Manning:

Absolutely. And, uh, thank you again for having me and my dear friends Anne and Pam on the podcast. Uh, it's a pleasure. Um, you know, the, those, that, that event that day was the culmination of a thirteen day March that we had been participating in that went from New Orleans to Baton Rouge. And the reason why we had done it from New Orleans to Baton Rouge was to draw the connection between the environmental racism that was taking place in New Orleans, as well as all throughout that corridor all the way up to Baton Rouge with the petrochemical industries in that area. And so we had planned to finish in Baton Rouge and to go to Louisiana Association of Business and Industry who we had previously sent a letter to requesting that we would meet with them and to be able to discuss our concerns with them about their funding for the oil and gas industry in St. James and St. John, the Baptist parishes and elsewhere in that area.

Gregory Manning:

So we had gone and we had decided to, we did a small, very peaceful protest outside of the building. And then we decided to go up the elevator to where the offices were, to request the

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meeting that we had previously sent a letter asking for that. Uh, and so, um, you know, it was very interesting. I'll never forget when we got into the building, I thought it was very odd that there was no security, no receptionist on the bottom level that was sitting at the kiosk that was there. And we had access to just go up the elevators with little resistance and really no resistance at all. So maybe, uh, about, maybe about 40 of us went up and we were in the corridor that the doors to the lobby offices had been locked and they refused to let us in.

Gregory Manning:

And so we, again, uh, since we were there and waiting to go down on the elevator, decided to have a peaceful protest there. And when, I mean, peaceful protest, we simply were inviting members of the impacted communities to speak. Uh, that is a representative from, uh, St. James or representatives from St. John representative, uh, from Mossville an area that was also established by free slaves and had been taken over by petrochemical industries that had built up around the homes of these, uh, descendants of Africans, um, slaves. And so, um, in fact, the last person as I was conducting and moderating who would come up and speak next, the last person to speak was a woman by the name of Ms. Christina or Kristin. She was from Mossville and I invited her to come speak, an elderly woman. And she was talking about her experience, really just pouring her heart out about what had been done to her community.

Gregory Manning:

And before I knew it there, uh, come in, uh, I guess some police officers, I am visually impaired as most people know. And so my, my vision doesn't really extend more than two feet and rarely do I recognize faces. I really go by voices. And so when I heard a voice say, you've all got to leave. I said, give us two minutes. Ms. Christie has got to finish what she's saying, and then we're going to go on down. And before I knew it, there was a, a skirmish. And, uh, I was on the floor, uh, with officers having their knee in my back up about three officers on top of me, uh, twisting my arm down my back. And, uh, everybody's scrambling around us. I was yelling number one because I was in pain, number two, because I was absolutely terrified and was really kind of sending out an alert as to I was in distress and very cognizant of the fact that these same officers are the ones that have really exhibited so very unfair treatment of black men, uh, throughout recent history.

Gregory Manning:

And so for that point, um, they got me up and, uh, took me outside, along with another brother, another African-American gentleman who was with us on that day. And I didn't know he was with us until they took me out and took us down to the, to the office, downtown Baton Rouge. And then I saw him walk in after they brought me in and what was funny was, as we were going to, um, to, to the office, all the streets around had been blocked off. And I thought, well, it must have Hannibal Lecter in a car somewhere or something, but lo and behold, it was me. Um, and so, uh, took us there and booked me, and then finally took me to central booking where they put shackles on me and took fingerprints, the swab, and swabbed my mouth. And that's when they told me that, they hand me a piece of paper and said, you need to sign here as to your charges said, well I can't see what you've written here.

Gregory Manning:

Please tell me. And the officer said, he said, well, you're being charged with inciting a riot. And he said, uh, resisting arrest and something else. But I said, inciting a riot. And he said, yes. I said, that's

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absurd. And he said, well, you just got to sign it. So I signed, get, uh, they took a swab of my mouth because I was now you're being charged with a felony. I sat in the lockup for about an hour or two. They took me by van to the East Baton Rouge parish prison, where I spent 11 hours. And nobody in there could understand why I was there, why I was there. The nurse who, who took an assessment of me to all the officers. And finally, I got out about 11 o'clock at night after 11 hours. But yeah, the insane charge, a ridiculous charge, I'll say of inciting riot in that place where we have always been nothing but peaceful. We saw obviously riotous behavior this past week, but then it's not what we did or what we aim to do. At all.

Chandra Hayslett:

Wow. What a story. Thank you, pastor Manning for sharing that. When you were planning with the other activists, when you all were having meetings, trying to figure out, okay, this is what we're going to do. Did the thought ever cross your mind that you could be arrested?

Gregory Manning:

You know, I think the thought is always that we could be arrested. I think that, you know, we try not to dwell on it, but I think that is always in our minds a possibility. We posed the question of if I woke up in that, that morning and thought that I was possibly going to go to jail. That was probably far from my mind. But I think, you know, it, the nature of the work is that somewhere in the realm of possibilities.

Chandra Hayslett:

Yeah. We're going to wrap up with you all giving some, maybe some best practices or tips to activists. I don't know if you can avoid, if people who are, who are activists can avoid being arrested, but I guess it always, probably is in the back of your mind with the nature of the work, but just really incredible story. Thank you for sharing that.

Chandra Hayslett:

Pam, let's bring you into the conversation from a legal standpoint, what's the danger in this? I think it's probably obvious, but I want to bring you into this conversation to talk about the legal strategy you took with Anne's case, and then just big picture, the trends that we're seeing and the danger of targeting activists in this space.

Pam Spees:

Yeah. Thanks. Thanks for that Chandra. I think, um, you know, what we've seen over the last three years in particular in Louisiana, and I think even longer than that nationwide is this escalation and this effort to salinize and further criminalized protests, right? So in, in 2018, Louisiana was one of those states that amended its critical infrastructure law to criminalize protests of pipelines, basically. And that was where you had people who were protesting, who if they were in fact, in fact trespassing, would have faced a misdemeanor for that type of protest when this law was enacted it salinized that. And I, that, and so then people were looking at, at felonies of up to five years in prison. That's interesting in Louisiana because Louisiana has over 125,000 miles of pipelines and referred to a fight around the access to a burial site of where people who'd been enslaved on the plantation, that once existed, where for most Formosa wants to build, there's a pipeline running through that cemetery.

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Pam Spees:

That cemetery has already been desecrated because there's a pipeline running through it. And so if people want to go and visit and commemorate their ancestors, and there's a question as to whether they have permission to be there or not, they could be facing up to five years. So the stakes were already very high. And then in 2019, we saw an upswing in activism. Pastor Manning was describing a coalition against Death Alley and the civil rights March from New Orleans to Baton Rouge. There were three such marches. Um, folks in the communities are really, are really stepping up and stepping out and, and putting up a really fair resistance to these industries. Um, and so then of course, you see a peaceful protest outside of the Louisiana Association of Business and Industry office, and Pastor Manning gets, gets pretty violently arrested and then charged with, he is the one that charged with inciting a riot.

Pam Spees:

And then of course in the following year, that was in October of 2019. In December of 2019 is when Bucket Brigade and Rise and others were, were trying to raise awareness about those nurdles, those plastic pellets that Formosa had spilled by the millions into the waterways in Texas. And then in December, they delivered some of these, nicely packaged, to these lobbyists. And then over six months later in the midst of a heated fight over access to, with Formosa, over access to that cemetery in the midst of a heated fight over access to with with Formosa over access to that cemetery for a Juneteenth ceremony is when, uh, we find out about the arrest warrant and Anne and Kate are ultimately arrested at that point, 6 months later, and charged with terrorizing, which is a 15 year felony, right? So they had a 15 year felony hanging over their head, but was what was really incredible about it is that this was such an absurd overcharge.

Pam Spees:

And Anne and Kate were so serious from the get-go that this was not going to intimidate them and that they would make this case their own. And so the effort at that point, we moved for, for what's called a preliminary hearing. We issued subpoenas to all the lobbyists. They started this fight. We were going to make them regret it because this was, there was absolutely no basis for not only this charge, but any charge. And ultimately the DA agreed couldn't find anything to charge them with. We sat with him, he read through a stack and we'd already, we already knew that there was nothing he could charge them with, but he found it out for himself because it was very clear. He'd gone through any number of laws trying to find something that he could reduce, reduce this down to. And there was nothing, what was such a privilege was being able to stand with them as, as they're staring at this unblinkingly and ready for that fight. The dangerous thing is this escalation and it's matching really fierce activism and advocacy by folks like Pastor Manning and, and people in St. James and in St. John who've had enough, their communities are, are literally on the verge of extinction by man-made causes. And it's very intentional and deliberate and ugly. And, uh, folks are standing up to that.

Chandra Hayslett:

I love that people are continuing to stand up and be brave. And thank you all for sharing your stories. And I know your activism is not going to stop the people who you work with in your communities. Their activism will not stop, but also neither will these entities who are trying to chill your work. I mean, Pam, you just talked about the escalation and the intention of the escalation. As

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we close up, do you all have any advice, best practices for activists who are moving forward in the step? Anything that they can do, any steps that they can take to avoid being targeted?

Gregory Manning:

You know, I think that's a very good question. And, and, you know, as a pastor, um, I would say, you know, we go into this work all the time with, with prayer. We, we, we surround it, we immerse it in prayer. And so I think one thing, you know, always you've got to pray about it, you know, use wisdom and, and weigh the risks. As I said before, I think there's always going to be a risk that is involved, but we also have to remember that we are, we are David fighting Goliath, and that these industries are very methodical, very strategic, very conniving in the work that they do. Uh, we, we even, we had unmarked cars following us. There's always, you know, people who are watching, who are waiting to try to infiltrate and destroy and derail the movement. And so be cognizant of that, first of all, that there's always going to be there. Uh, and so in the same way, they're strategic and methodical, just be just as strategic, have a clearly laid out strategy. And don't veer from it. Just do what you've already really planned and organized to do, uh, and put people in place just like you're playing chess.

Pam Spees:

It's going to be interesting moving forward in this country with everything we've just witnessed and certainly watching the double standards so starkly at play last week was, you know. Even though we know it's there, to see it so clearly when you have Pastor Manning and people from the community, most of them were in their sixties and seventies, peacefully protesting, and he's arrested for inciting a riot. And Ann and Kate are arrested for terrorizing and facing 15 years. It is, we know who, who is always most at risk. That's not going to change moving forward. But I think as Pastor Manning said, I guess I would echo what he said, just be very strategic. Be very clear. Stick to it. Legal observers are essential, always. And it just so happened that was the one day that wasn't your calling server. Not that it would have stopped after Manning's arrest, because I think that was going to happen. They got too close to the center of gravity there, Louisiana Association of Business and Industry. And as Pastor Manning said that different people face different levels of risk, right? Um, in all of this, but what has been so inspiring in this work, especially with our friends and colleagues in Louisiana, is the refusal to let fear sort of infect anything. And the face that what they're doing is right. And that, that they will be victorious. That to me, I think is, is key not being, uh, daunted in all of this.

Chandra Hayslett:

Thank you. Yet the bravery of the activist is on full display. I want to thank Pastor Manning and Anne for sharing their personal stories for Pam, giving us the, the legal background and the advice at the end for what people can do moving forward and talking about the trends and the escalation things that activists need to look out for as they're moving forward in their work, the work is so important. I applaud you for your efforts and your, your passion and your drive in this space. Um, thank you so much for joining The Activist Files. We will have some resources for cases and things that you've mentioned during this conversation, but thank you so much and good luck with your work.

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Gregory Manning:
Thank you so much.