

JUDGE QUESTIONS GOVERNMENT'S PERSECUTION OF DADT ACTIVISTS

I'm busy watching this hearing today (and trying to watch one that happened last week). It's hard to watch two hearings at once!

But I didn't want you think I was still celebrating St. Paddy's Day, so for the moment I'll direct you to this story, another example where DOJ is taking an unreasonable stance against democratic activists:

Just got a report from Paul Yandura who is at the Federal Court House where the arraignment is for the 13 DADT protesters. As reported yesterday, the protesters, who were arrested on November 15, 2010 in front of the White House, are facing tougher charges than usual for cases like this. The government's lawyers intend to prosecute the 13 defendants for "violating the orders of a federal law enforcement officer," which could result in jail time. This is the first time DADT protesters have been in federal court. The other defendants were processed for minor misdemeanors in DC's court system.

At today's arraignment, Mark Goldstone, the lawyer for the 13 protesters, explained to Federal Magistrate Judge John M. Facciola that the statute under which the defendants are being charged was unusual. He noted that it had not been used in recent past against people engaging in civil disobedience at the White House. For whatever reason, the government has decided to pursue the more serious criminal charges.

What happened next was surprising to

those in the Courtroom. Judge Facciola got up out of his chair, while pacing, gave a speech about the history of the civil rights movement in the United States. He intimated that there were trumped up charges back in the 50s and 60s, too. And, he evoked the *Shuttlesworth v. Birmingham* case, Martin Luther King's "letters from the Birmingham jail" and how civil rights protesters were often brought to court to face stricter charges. The judge clearly linked the protest over Don't Ask, Don't Tell to those earlier civil rights protests.

The Judge asked the government prosecutor a lot of questions, including why the government didn't charge the protesters under the lesser crime of disorderly conduct.

You may remember Facciola from the White House email case, in which he ordered the White House to actually keep its emails.

I'm glad the Magistrate judges are pushing back against DOJ's unreasonable positions.