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## Frost vs. Perry reaches 9th Circuit [report]

From: [jared@valuserve.com](mailto:jared@valuserve.com) (Andromeda.net- Anderson, Jared)  
Date: Thu, 6 Nov 1997 13:04:19 -0800

HELEN FROST vs. WILLIAM PERRY

THE NINTH CIRCUIT COURT OF APPEALS

11/5/97

The case of government workers exposed to hazardous waste at the Groom Lake facility at Area-51 went to the appellate court this morning in San Francisco. The 3 judges presiding were Harlington Wood jr., Pamela Rymer, and A. Wallace Tashima. The lawsuit which began in 1994 was originally directed towards three individuals, Defense Secretary William Perry, National Security Adviser Anthony Lake and Air Force Secretary Sheila Widnall of the DOD and Carol Browning of the EPA. Jonathan Turley is the sole lawyer representing a group of plaintiffs consisting of base workers the primary of which is Helen Frost representing her deceased husband Robert who died due to complications resulting from exposure to toxic substances. Walter S. Kasza who also died since the inception of the lawsuit in 1994 is being represented by his widow Stella. The additional plaintiffs remain anonymous. Turley made a passionate plea for the opportunity to prove criminal activity by base administrators in a court of law. Due to limited time, Turley only touched on 2 of the 11 issues presented on appeal directed by the affidavits from his clients.

Judge Rymer continued to ask "which facility was in question?" The judge's lack of clarity about the principle facility may have been compounded by the assertions of Air Force attorney Colonel Richard Sarver in the District Court hearings where he stated that the facility at Groom Lake was run by the Department of Energy, was not a military asset, and was not called Area 51. Turley responded by saying that he presented evidence indicating that all of Sarver's testimony was false and there was no dispute about which facility was in question in the District Court case. Turley stated that the government was lying both in and out of court at least 5 times during his rebuttal making constant reference to how no one in the government acknowledged the existence of Project 51 (Area 51 operating project name). Judge Rymer also expressed concerns over whether Turley would be able to prove guilt since state secrets had been applied to protect

the facility. Apparently the government did not appeal the District Court's decision but elected to take exemption. Turley disagreed with Judge Rymer and made several vague assurances that he could prove guilt and pleaded for the chance. The judge in turn stated lack of existing evidence in discovery requests indicated the case could not be tried. Judge Rymer asked Turley point blank "If you had hard proof that hazardous waste exists at the base, what would you do with it?" contending that Turley could not prove guilt by association.

Turley faced four government lawyers for the defense the first of which to speak was Justice Department lawyer Robert Klarquist who made a number of brief but succinct responses to Turley's contentions including that Congress should not be forced to release classified information as a routine matter in the case. Klarquist contended this was a clear conflict between national security and environmental law. The next defense lawyer to speak was James Kilbourne also from the DOJ. Kilbourne stated that a 3 year DOJ evaluation of the case revealed that no prosecution was necessary based on the available evidence.

After the court recess Turley answered questions for reporters in front of court building. The media frenzy included a full news crew from KLAS TV Las Vegas with front man George Knapp asking Turley questions on camera. Knapp also attended the appeal along with a number of other reporters all of which furiously scribbled notes while the attorney's made their arguments. Turley told reporters that biopsies of Robert Frost's tissue were sent to labs at Rutgers which determined that his body had been saturated with TCE (trichloroethylene) and that he had satellite photos of waste dumps at Groom Lake in his possession. Turley stated that if guilt is proven the ultimate burden will fall on president Clinton's shoulders as he will have to be accountable for crimes committed by a "black" facility that he exempted from environmental laws through executive order but conversely did not exempt from the disclosure provision. I asked Turley to respond to the assertions made by Washington Lobbyist Stephen Basset on a national radio talk show this week alleging that the government had attempted to "classify" him, his practice and his office. He stated that it was all absolutely true and that he had been threatened numerous times and told not to speak to the media etc. He humorously stated that he couldn't even get a janitor into to his office to vacuum it. Results of the appeal hearing are pending...

Jared

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