

## ROLL CALL

Jury Convicts Judiciary Protester

By Jennifer Yachnin

Roll Call Staff

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A D.C. Superior Court jury issued a guilty verdict Tuesday in the trial of a New York woman who was arrested for interrupting a Senate Judiciary Committee hearing last May when she requested permission to testify.

Elena Sassower, co-founder of the White Plains, N.Y.-based Center for Judicial Accountability, faces up to six months in prison and/or a \$500 fine. Judge Brian Holeman scheduled a sentencing hearing for June 1.

During the trial, Assistant U.S. Attorneys Jessie Liu and Aaron Mendelsohn sought to prove Sassower willingly caused a "disruption of Congress," a misdemeanor offense, when she stood at a May 22 hearing to request to testify in opposition to a judicial nominee. "The defendant came to Washington, D.C., to express her views but she did not follow the rules," Mendelsohn said during his opening statement. "She broke the law by loudly disrupting a U.S. Senate Judiciary hearing."

In her defense, Sassower, who represented herself with assistance from an attorney adviser, argued that she waited until Sen. Saxby Chambliss (R-Ga.) gaveled the hearing closed after a nearly two-hour proceeding, to make her statement. The right of citizens to testify at public hearings, Sassower argued, "is not and must never be deemed to be a disruption of Congress."

Before the trial began, Sassower's attorney, Mark Goldstone, suggested a guilty verdict could create a precedent restricting testimony at future hearings. "This is a case that's going to determine whether or not citizens have a right to testify at public hearings with respect to Judiciary," Goldstone said last week. While "disruption of Congress" is often applied to suspects who shout from the House galleries or attempt other actions such as unfurling flags, Goldstone said, "We have no history or precedent of a person being arrested for requesting to testify after adjournment."

In their decision it appears jurors gave primary consideration to a tape of the hearing in which Sassower can be heard calling for Chambliss' attention, and then protesting her arrest. "Their view of the tape was that she began speaking before he stopped speaking,"<sup>2</sup> Goldstone shortly after the verdict. "That was a surprising view of the evidence because we were very happy to have them view the evidence, because we thought it established she spoke after adjournment." Because several members of the jury appeared to base their decision on the timing of Sassower's action, Goldstone added, "It's not as clear a test of a citizen's right to testify as it may have been."

Sassower may appeal the court's decision on numerous grounds. Notably, Goldstone said, the judge limited Sassower's testimony (because she represented herself, Sassower was allowed to address the jury from the witness stand) and subsequently ended her defense, overruling Sassower's protests. "You can't rest the defense case when the defense is not done with their presentation," Goldstone said.

While testifying, Sassower asserted Judiciary officials planned her arrest in response to her persistent contact with Congressional staffers, including those in Sen. Hillary Rodham Clinton's (D-N.Y.) office, to voice her objections to one judicial nominee. "It appears the committee's leadership set me up to be arrested," Sassower said during questioning by the government's attorneys. Sassower has also asserted the involvement of a Capitol Police sergeant who had previously arrested her following a 1996 Judiciary Committee hearing. Although Sassower was charged with disorderly conduct in that incident, she was not convicted.

During the trial Sassower sparred frequently with the judge (prior to the hearing she filed a motion to have Holeman removed from serving on her case) and at one point, Holeman had U.S. marshals take Sassower into custody after she attempted to introduce evidence the judge had previously ruled could not be admitted. Additional evidence could also be included at an appeals hearing, such as a transcript of the hearing that Holeman excluded as evidence, although he allowed jurors to use the document as a reference. An unrelated trial, set to begin in D.C. Superior Court on July 6, is likely to raise issues similar to those in the Sassower case.

In that trial, seven D.C. activists face charges of "unlawful entry" for attempting to petition House Speaker Dennis Hastert (R-III). The incident occurred in October 2003, when the group (dressed in colonial and plantation-style attire) sought Hastert's signature on a petition to bring the District of Columbia Budget Autonomy Act to the House floor for a vote. All seven defendants, who will represent themselves while Goldstone serves as an attorney adviser, are members of either the D.C. Statehood Green Party or the Stand Up for Democracy in D.C. Coalition.

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