



This Land Is My Land — Isn't It?

Ocie and Carey Mills went to jail in Pensacola, Florida, May 15th. The 54-year-old retired contractor and his 31-year-old son were sentenced to 21 months in prison after a U.S. District Court jury found them guilty of knowingly discharging fill material in wetlands and dredging a canal on their property, both violations of the Clean Water Act. The two men were each fined \$5,000, denied eligibility for parole, and ordered to restore the wetlands within 90 days of their release from prison.

The Environmental Protection Agency was “truly gratified” with the sentence imposed on the father and son, said Keith A. Onsdorff, an associate enforcement counsel with the EPA. He said that the stiff penalty “would send a strong message across the country that those who knowingly violate environmental laws are going to jail.”

The severe sentences will indeed send a message across the country, but the message will not be about environmental violations; it will be about government bureaucrats ganging up on the little guy while ignoring much more serious violations of environmental laws by big developers and large corporations. All that Ocie Mills did was clean out a 300-foot drainage ditch on his half-acre parcel of land and stockpile some fill material on the uplands section of his property. The Florida Department of Environmental Regulation (DER) saw no problem with either action, but the United States Army Corps of Engineers did.

At the time of his conviction, Ocie Mills had been battling with the Florida DER for more than a decade over activities on two lots of land adjacent to East Bay in Santa Rosa County. He had on one occasion held DER officials at gunpoint when they came onto his property without a search warrant. The DER charged Mills with battery and reckless display of a firearm, but he was acquitted. Mills then sued the agency for false arrest, and was awarded some \$9,000 in damages.

Mosquito Control

The current case arose when Mills wanted to clean out the ditch for the purpose of mosquito control and drainage. After investigating reports of unauthorized dredging on the property, DER Assistant General Counsel E. Gary Early wrote to Mills on April 21, 1983. Early said the investigation had “determined that you were maintaining your existing canal rather than engaging in new dredging activities. Maintaining existing structures is specifically exempted from further permit requirements.”

Early also said that “the Department does not intend in any way to prevent or deter you from maintaining what you have. It is, however, requested that the maintenance be done in an environmentally compatible manner.... I understand that you are going to allow representatives of the Department on your property to document current conditions of the canal and pond. I think that is a step in the right direction and will ultimately serve to protect the interests of both you and the Department.”

The conflict still had not been resolved three years later when Mills contacted Robert V. Kriegel, DER District Manager for the Northwest District. An interoffice memorandum dictated by Kriegel recalls the substance of his telephone conversation with Ocie Mills on October 9, 1986:

Mr. Mills discussed certain issues pertinent to the ongoing case. He advised that he had discussed maintenance exemptions with Charles Harp; that doing the work he did, he stayed outside of a marsh; that he dug the ditch deep so that it would not drain into the bay, but rather would drain down into the groundwater. He advised that he wanted to put a house in near the ditch, that he had



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to do the grading to prevent certain drainage problems that pre-existed on the property.

I advised that there was an exemption that pertained to the maintenance of existing ditches to previous occurring permitted dimensions. I advised that I would try to set up a discussion with Mr. Mills, our legal staff, and myself to explore the possibility of a settlement.

On September 9, 1987, Mills filed for a permit to dredge and fill on his property, but the permit was denied. He looked into the process of obtaining permits, or exemptions from them, and found that “the political and rich” did not seem to need either permits or exemptions to develop large tracts of land. Mills wrote to his State Representative, Democrat Bolley “Bo” Johnson, and asked him why this was the case. Representative Johnson referred the question to Robert Kriegel of the DER, who discussed it with an aide to Johnson, but no further action was taken.

On August 8, 1988, Ocie Mills wrote to Assistant U.S. Attorney Samuel A. Alter Jr. and asked to appear before a federal grand jury that was then considering evidence that Mills had violated the law by not obtaining a permit to do maintenance work on the ditch on his property. The letter asked Alter to explain “why I am being subjected to this costly and time-consuming action when far more extensive acts of others have been constantly ignored.” Mills cited several examples of ditches being dug to drain the wetlands, without permits, for housing subdivisions on East Bay. One of these subdivisions, the Paradise Bay project, was developed by Bo Johnson and Neal Colley.

“I support the effort of our agency to protect our environment, and I am prepared to give you all reasonable cooperation,” Ocie Mills said in his letter to U.S. Attorney Alter. “However, I think you will agree I have the right to expect that all government agencies deal even-handed by treating all the people the same, including me.” The grand jury did not invite Mills to appear before it, but two months later it indicted the father and son for violating the Clean Water Act.

Grounds for Reversal

The Mills’ verdict is being appealed on the grounds that there are “substantial questions of law likely to result in reversal or an order for a new trial.” Among the substantial questions mentioned in the Notice of Appeal filed by Attorney Ronald W. Johnson of Pensacola is “whether the Court excluded relevant evidence by not allowing the Defendants to introduce testimony that the State of Florida Department of Environmental Regulation authorized all of their activities for which they have been convicted.” Excluded at the trial was DER correspondence confirming that the Mills’s maintenance of the drainage ditch was exempt under Florida law and that the deposit of fill material on certain portions of the land was permissible.

Other substantial questions involved the Court’s refusal to allow DER employees “to testify as experts to their opinion that the property in question was not a ‘wetland’ under the definition of the United States Army Corps of Engineers”; its exclusion of “relevant evidence under 33 U.S.C. 1344(f), which provides for the maintenance of drainage ditches, and Florida Administrative Code Rule 17-4.04, which provides for the maintenance of a drainage ditch”; and its improper application of Florida’s sentencing guidelines.

The Millses have also alleged that the judge in the case was biased against them and handled the trial poorly because he was hard of hearing and had difficulty comprehending what was taking place in the courtroom. They sought to have U.S. District Judge Winston E. Arnow disqualified from the case, but the 77-year-old jurist refused to step aside. Referring to affidavits suggesting that he was physically and mentally incompetent, Arnow said on May 10th that “these affidavits are unsupported by the facts. I



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have no reason to defend myself.”

In a separate affidavit, the Millses contended that court reporter Marty Plott prepared an inaccurate transcript of the sentencing hearing, and of the hearing on the objections to the pre-sentencing investigation and the guidelines. “The defendants have a recollection of some statements made during the course of these proceedings which are different than it appears in the transcript prepared by Ms. Plott,” the affidavit said. Ms. Plott admitted leaving one statement of Judge Arnow out of the transcript, but only because it was a repetition of a previous statement.

“It’s one thing to correct a transcript, but it’s criminal to clean it up,” said Ocie Mills, adding that what was left out of the transcript was crucial to proving the allegations of incompetency against Judge Arnow.

Mills also contends that Judge Arnow originally said he had no objection to the father and son staying out of prison until the appeals process had been exhausted. But on May 1, said Mills, the judge changed his mind and ordered the defendants to begin serving their sentences on May 15.

Less Equal Than Others

Why have Ocie and Carey Mills been subjected to such bureaucratic and judicial harassment? Their attorney, Ronald Johnson, told *The New American* that it was because they “fought the system.” Ocie believes that a contributing factor was his decision to run against Representative “Bo” Johnson in last fall’s election. (Johnson won reelection.) “People familiar with my case know my persecution was politically motivated,” said Mills. “They came after me when I made it known that I was going to run against Representative Bolley ‘Bo’ Johnson.”

Ocie said that “we are all guaranteed equal protection under the law. However, some are more equal than others.” He criticized “the evil politicians” in Santa Rosa County and said that his treatment is “proof that the agencies are governed by politicians, not law; that the conspiracy to entrap the Ocie Mills family has now placed politics in our justice system, making the Ocie Mills family criminals. Just remember, if this can happen to me, it can happen to you.”

Support for the Millses has been voiced by many residents of the area and by syndicated columnist Charley Reese. “Mills is not a developer,” Reese wrote in a recent column. “He had no criminal record. No toxic chemicals were involved, and in fact no damage to the environment was done. He simply did not have the permission of federal bureaucrats to clean out a drainage ditch and bring in some dirt fill for his own property in a state-approved subdivision. For that, federal bureaucrats are wrecking his life.... Our forefathers did not fight a revolution for this kind of nonsense.”

As we go to press, Ocie and Carey Mills are incarcerated in the Federal Prison Camp at Saufley Field in Pensacola. Their attorney has filed a motion to have them released pending their appeals, but it is not known how long it will be before the motion is heard, or whether or not it will be decided in their favor.

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