

Reporter Diane Bukowski Found Guilty Of Obstruction

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Reporter Diane Bukowski

U.S. reporter found guilty of obstruction, faces 4 years in jail

NEW YORK (RPRN) 05/07/09--The Committee to Protect Journalists is concerned about the prosecution of American reporter Diane Bukowski, who was found guilty on May 1 of two felony counts of resisting, obstructing, opposing, and endangering two Michigan state troopers while covering a crime scene. Bukowski, 60, will face sentencing, which may include a fine of up to \$4,000 as well as up to four years in prison or both, on June 1.

Bukowski is a freelance reporter for The Michigan Citizen, self-described "progressive community" weekly newspaper oriented toward the Detroit area's African-American communities. Many of Bukowski's reports have been critical of the Detroit Police Department as well as the office of the Wayne County prosecutor. She was arrested on Election Day in November 2008 while covering a crime scene involving a chase by Michigan State Police, resulting in the fatalities of a suspect as well as a pedestrian. A Michigan state trooper admitted in court that he seized Bukowski's camera after her arrest and, while still at the scene of the incident, erased two digital images.

"We are monitoring the proceedings closely because of their implications for press freedom," said Joel Simon, CPJ's executive director. "We are particularly troubled that a state trooper deleted two photographs. The prosecution strikes us as excessive and we worry that it could send a message to reporters that covering an accident or crime scene could make them subject to felony charges."

Bukowski arrived at the scene after a single motorcyclist collided with a pedestrian and then a telephone pole, killing both men. The motorcyclist was being pursued by a state trooper cruiser, according to press reports, including one by Bukowski.

The aftermath of the scene, including most of Bukowski's arrest, was captured on video by WJBK Fox 2 Detroit. State troopers and Detroit police cordoned off the street as fistfights broke out nearby--one captured on video by the Fox affiliate--among family members and others who knew the deceased. Bukowski was arrested near the scene of the accident as she was taking pictures of one of the deceased. State troopers accused her of having crossed a police line; Bukowski maintains that she did not and that she was taking pictures at a distance. The Fox 2 video shows no evidence of Bukowski resisting officers.

"She was resisting by not complying with the police order" not to enter the crime scene area, Maria Miller, spokeswoman for the office of the Wayne County Prosecutor, told CPJ. "And she was asked not take pictures of the two deceased men," Miller added.

Wayne County Assistant Prosecutor Thomas Trzcinski told CPJ that both the journalist's violation of the crime scene and her taking pictures of it endangered state troopers trying to control the area. "It is more likely that peace is going to be maintained if these images are destroyed," Trzcinski said, paraphrasing what he said were the concerns of the troopers at the scene.

Police also arrested a family member of one of the deceased after she, as she later admitted in court, "absolutely did cross the police line," according to the Detroit weekly Metro News. She was not charged. One of the men engaged in fighting was also arrested; during his arrest he head-butted a state trooper in the stomach, according to news reports. He was charged with disorderly conduct, a misdemeanor, "and then given a ride home by the cops," reported the Metro News.

Trzcinski told CPJ that Bukoski's "prior reporting had nothing to do with the decision to prosecute." Prosecutor Kym L. Worthy, in particular, has been the subject of several stories by Bukowski criticizing her decisions not to prosecute police officers for alleged brutality. Some allegations were confirmed by an internal Detroit Police Department report released last year, according to new reports, including a lengthy one by Bukowski in February 2008.

The American Civil Liberties Union of Michigan filed an amicus curiae brief with the Wayne County Circuit Court after felony charges were filed, questioning whether Bukoski was selectively prosecuted because of her prior reporting. The brief states that the "danger is real that any ruling or verdict by this court that is adverse to the defendant's interests (whether deserved or not), will be perceived by many as retaliation for her journalistic work."

During Bukowski's trial, Wayne County Circuit Court Judge Michael Hathaway approved a motion filed by Trzcinski to preemptively bar Bukowski from arguing that she was not liable because she was acting as a reporter. At the same time, Hathaway instructed the jury to assume that the images deleted by a state trooper from her camera would have been favorable to her defense, Trzcinski told CPJ. The judge verbally reprimanded the state trooper who deleted the images, according to news reports, but no charges were filed against the trooper for doing so.

The Michigan Citizen ran a story by Bukowski during the trial that that the troopers pursued the motorcycle without having turned on the cruiser's siren, in apparent violation of state police regulation. The story referred to a dash-cam videotape of the chase taken from a camera mounted on the cruiser obtained through a Freedom of Information Act request.

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