

# When Dissent Becomes a Crime

## The Berster Case, Part Three

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*In a courtroom crowded with supporters and gadflies, reporters and government observers, Kristina Berster took the witness stand on a Tuesday in October, 1978. After remaining silent for three months, the alleged “terrorist” suspect was about to present a defense.*

She had attempted to cross the border from Canada prompted by a mixture of fear and hope. She’d been seeking refuge from a “counter-terrorist” fever in her homeland. “I wanted to start a new life,” she said, “to live openly once again, to have a legal existence. I was no longer able to go on with life underground.”

As a student at the University of Heidelberg almost a decade before she had been part of the anti-war movement and joined an alternative therapy project. The purpose of the Socialist Patients Collective was to “find out the reasons why people feel lonely, isolated and depressed and the circumstances which caused these problems,” she explained. But in June 1971, as a political crackdown on dissent swept West Germany, members of the group were accused of criminal association, based on the testimony of a police informer who later recanted.

Kristina spent six months in detention, including three months in solitary confinement. In 1972, she was finally released. But a year later she faced another trial. At this point she went underground and left the country. The next years were spent in Holland, North Africa, the Middle East, and France. But after German industrialist Hans Martin Schleyer, a former SS official by the way, was killed after a kidnapping she realized that it wasn’t safe for her in Europe either.

After the death of Aldo Moro in Italy leaving felt like a matter of survival. In May 1978, Stern magazine, Germany’s version of Life, printed the pictures of 34 “most wanted terrorist suspects.” Kristina made the list.

“Everyone arrested as an alleged terrorist is detained for between two and three years in complete isolation,” she told the court. Before she could say more, however, the prosecution objected, the testimony was stricken, and the judge banned further statements on the political aspects of the case.

US Attorney William Gray’s cross examination had a different objective. By using phone logs, asking why she decided to leave Europe, and digging into the origins of her fake passport, he was searching for prior contact with the New York City boutique owner who had helped her reach the US border. The questions pointed to a hidden conspiracy; in other words, support for the FBI scenario.

Since this “simple border case” was really a vehicle to expose a plot linking foreign terrorists and US activists, conviction on a minor border violation wouldn’t be enough.

During her second day on the stand Kristina explained that her instructions on how to get into the US had come from Chilean refugees living in Paris. This intrigued Gray. But he was even more eager to know where she had lived during her underground years, a line of inquiry she and her lawyers hoped to avoid. Since she had stayed in Libya and South Yemen, Middle East countries out of favor with the US, her answers might prejudice the jury. Taking the Fifth, on the other hand, would undermine her credibility.

The judge urged the lawyers to strike a deal. The countries would henceforth simply be known as A and B, and Berster would simply admit that she had felt safe during the time she spent there.

On re-direct Bill Kunstler probed her decision to leave France — not just where and who, but why. But the answer was blocked. Neither Gray nor the judge wanted testimony about her fear of persecution.

“Mr. Gray opened that door,” snapped Kunstler. “No, he hasn’t,” the judge shot back. They were close to the confrontation that had looked inevitable since the opening moments.

A day earlier, Kunstler had issued a warning when Coffrin let Gray ask about her underground years. “All right, Judge. You are opening it,” Kunstler said.

“I am not controlling this,” the judge replied. A strange admission.

“All right, as long as you are on notice that now we are going full blast,” Kunstler countered. To which the judge replied hotly, “You may not be allowed to go full blast.” That, too, was a warning.

Kunstler shifted to another line of questioning. Why didn’t Kristina think it was wrong to enter the country secretly? It was a direct extension of questions Gray had asked, but he objected anyway.

Kunstler prowled the chamber, flashing angry glances at the prosecutor and the judge. Circling the prosecution table he returned to the podium and pounded on his notes. “I want to get to her state of mind, and why she thought she was not wrong.”

Coffrin wouldn’t budge: No testimony on West Germany would be admitted. Kunstler was boiling mad. Shouting, he charged that the judge had ruled consistently against the defense. If the jury had been watching, that outburst might have brought a contempt citation. But they’d been herded out earlier.

A decade after the Chicago 8 trial, Kunstler had not lost his power to provoke. This time around, his powerful yet studied rage led to a private conference in which the judge merely reamed him out for “impugning” the integrity of the court.

By the following day, Coffrin’s attitude had softened a bit. Kristina would be allowed to explain why she felt that her actions hadn’t been wrong. “I had been accused, originally, unjustly of things I had not done,” she explained. “I was wanted for associating with people suspected of terrorism, and I knew that other people suspected and in jail had died under mysterious circumstances.”

Gray objected but the testimony continued. About lying to border officials, she said, “I was afraid of being detained, checked out. If police agents found out I would be deported right away and I wouldn’t get to contact lawyers and ask for asylum.”

But why pick the US.? “I spoke the language,” she said. “It had customs and culture similar to Europe. I thought the US was independent of Germany. I thought I could find understanding and support for my situation, since this country has a long tradition of accepting refugees.”

When she stepped from the witness stand the defense rested its case. But there was so much more she hadn’t been permitted to say.

*Greg Guma’s new novel, Dons of Time, will be published in October by Fomite Press. Next in this story, Germany’s crackdown on freedom.*

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