

# The Washington Post

## NH farmer is folk hero for gun rights advocates

By LYNNE TUOHY

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MOULTONBOROUGH, N.H. -- Property and gun rights advocates have made a folk hero of Ward Bird, convicted and imprisoned for brandishing a handgun at a woman who trespassed on his remote hilltop land.

Their "Free Ward Bird" campaign has ignited support among townsfolk and strangers. Libertarian and tea party websites decry his fate: at least three years in prison. Protests and vigils are tweeted on Twitter and trumpeted on Facebook pages devoted to his case. Backers raise funds with \$15 Italian buffet suppers and alt-bluegrass music and dancing.

Bird, married and the father of four children, hangs his hope for freedom on a pardon by Democratic Gov. John Lynch.

"I don't need people using me as a cause," Bird told The Associated Press. "I just want to be home with my family."

But a pardon is a rarity in New Hampshire. And Lynch, who hears Bird's case Jan. 19 with a five-member Executive Council, believes pardons are warranted "only under extraordinary circumstances or a gross miscarriage of justice." The governor doesn't vote on pardons - he can only veto the

council's vote to grant one.

Court records, testimony and interviews show conflicting accounts of how Bird, 49, wound up in the Carroll County Jail, reading seed catalogs and pining for fresh air and sunshine.

Christine Harris ignored numerous "No Trespassing" and "Keep Out" signs when she drove up the remote road to Bird's home the afternoon of March 27, 2006. She says she was lost, trying to find a property for sale.

Bird, who did not testify at trial, says he repeatedly asked her to leave. Harris says he ran at her from his porch, screaming profanities. She got back into her truck; he turned to go back into his home.

There was his handgun, his Sig Sauer .45-

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caliber pistol. She says he brandished it at her as he charged at her. He says it was tucked into his back waistband, revealed only to Harris when he removed the ammunition as he went inside.

After two trials, Bird, a farmer, was convicted of criminal threatening with a handgun - a charge that carries a mandatory minimum three-year sentence in this "Live Free or Die" state. The state Supreme Court upheld his conviction, and he was locked up Nov. 17.

Bird's case has generated outrage among lawmakers. Republican House Speaker William O'Brien last month took Lynch a petition signed by 117 state representatives. O'Brien said Bird's incarceration is a miscarriage of justice.

"Any one of us has the right to tell a stranger to leave," O'Brien said.

He said that includes showing a gun to emphasize the request. He said the law used to lock up Bird needs to be revisited.

Indeed, new legislation inspired by Bird's case would allow the display of a gun by a homeowner who feels threatened, without risking prosecution.

Harris, of Salem, N.H., testified that she saw - and disregarded - numerous "No Trespassing" and "Keep Out" signs as she

drove along the road to Bird's hilltop home. She had phoned the Bird family the night before, asking if they or their relatives had property for sale. They told her they were not interested.

Harris said Bird came at her from his porch "waving his arms like a maniac" and repeatedly ordering her to get off his property during the 10-minute encounter.

"He ran - jumped off the porch and ran a few steps towards my car as I was backing out," she testified. "All I know is Mr. Bird was waiving the gun at me on the porch, running back and forth."

She said he was about 30 feet away from her "screaming at me obscenities."

Bird told the AP in a recent interview that he did not wave or point his gun at Harris.

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"I asked her to leave, repeatedly," Bird said. "She refused to do so and kept asking questions I wasn't interested in answering. I ended up raising my voice and using some profanity."

Bird said that when Harris got in her truck, he turned to re-enter his house and took his handgun from his back waistband. He said he removed the weapon's ammunition before entering his house.

Bird was indicted on a reckless-conduct charge. Prosecutors added the criminal threatening charge nine months before his first trial, which ended in a mistrial.

Prosecutor Susan Boone said that between trials Bird was offered a plea deal for reckless conduct, which carried no jail time but probation - and loss of his right to possess a gun - for two years. Bird said he rejected it because he did nothing wrong. He was convicted by a jury on June 30, 2008.

Carroll County is awash with signs on snow banks and business marquees proclaiming "Free Ward Bird." Protests, vigils and caravans of cars crisscrossing the state have touted his cause.

"There has been a huge community outpouring," said local contractor Jon Tolman, a friend of the Birds. "Lots of people are contributing to trying to make this right."

Cato Institute Chairman and attorney Robert Levy, who successfully challenged the District of Columbia's handgun ban in a landmark 2008 U.S. Supreme Court ruling, said Bird's case doesn't rise to a 2nd Amendment challenge. States can regulate what people can do with a handgun on their property, he said.

"That doesn't change the fact that it's an outrage," Levy said. "You have pardons to correct for outrageous. It would seem this would qualify."

Bird now wishes he had testified but agreed at the time with his lawyer, Mark Sisti, that it didn't seem necessary.

"The case was overwhelming at that point, we thought," Sisti said. "I was surprised the charge was brought, and I was shocked at the conviction."

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Sisti said he knows of no precedent for arresting a property owner when someone is trespassing and resisting requests to leave.

Superior Court Judge Steven Houran said he regretted having to sentence Bird to the mandatory minimum. He urged the transfer of Bird to the county facility so that he might be eligible for work release after 90 days.

Bird's wife, Ginny Bird, said she is trying to keep life "normal" for their four children, ages 10 to 18. They visit Bird for one hour each week.

"It's amazing how much support we have in the community, and they feel that," she said.

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Online

<http://www.freewardbird.org>

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