

3/31/2020 6:39:31 AM Regular

University of Kansas **KKU**
In Process Date:

Odyssey

ILL Number: -15974642



Odyssey: odyssey.rapid.exlibrisgroup.com

Email:

EMAIL:

Maxcost:

KKU Billing: **Exempt**

Paging notes:

___ Call # NOS ___ Call #/ Title

Book/Volume/Issue/Series NOS
(Circle)

Year ___ ≠ Volume ___

___ Article not found as cited –

Why? _____

Initials _____

Staff notes:

OCLC#: 1048435516

ISSN#: 9781788734592

Lending String:

Lending Articles

1C

Borrower: RAPID:ATUOW

Call #: **E912 .L46 2019**

Location: **Watson Library Stacks - 1**
Center Stacks Stacks Map

Journal Title: **Being numerous : essays**
on non-fascist life

Volume: Issue:

Month/Year: **2019**

Pages: **55-70**

Article Author:

Article Title: **STILL FIGHTING AT**
STANDING ROCK

ILLiad TN: 1927941



Shipping Address:

NEW: Main Library

Still Fighting at Standing Rock

Rattler sat on the sofa scrolling through his phone. It was a drizzling, cold spring day in Bismarck, North Dakota, but he wasn't going outside much anyway. A great mountain of a man with thick black hair to his waist and a disarming gentleness, Rattler made the objects around him look small. The sofa on which he sat, the phone he held, the homey living room where we met—the whole city of Bismarck seemed too small for Rattler. But his bail conditions and an ankle monitor confined him to the area for over half a year as he awaited trial.

He put the phone down. "I was looking for a quote," he said, "about how the people have the right to overthrow the government if it abuses its power. Who said that?"

Sandra Freeman, Rattler's attorney, sat with him on the sofa. She ventured that the line he was seeking might be from the Declaration of Independence. Rattler didn't return to his phone to check. If he had, he may have noticed that Jefferson's founding document—that vaunted proclamation of America and its values—described the land's native peoples, his ancestors, as "merciless Indian savages."

Rattler, forty-five, legal name Michael Markus, is one of six native activists who faced near-unprecedented federal charges related to the Standing Rock protest camps against the Dakota Access Pipeline (DAPL). The federal cases sat alongside hundreds and hundreds brought by state prosecutors, stemming from vast numbers of arrests made over the six months that the camps stood. At its height, the protest drew as many as 15,000 participants from around the world and, for a short time,

the dilettantish gaze of the mainstream media. The authorities razed the last major holdouts of the camps on February 23, 2017, by which point numbers had dwindled as blizzard conditions pummeled the prairie lands. The camera crews packed up, and most of the country went back to focusing on Trump.

But for Rattler, his federal codefendants, the many hundreds of arrestees facing state charges, and their lawyers, the fight on the ground in North Dakota was far from over. They faced a terrain as brutal and unforgiving as any winter on the Standing Rock Reservation: a small-town court system in conservative rural counties that had no experience of anything nearing this scale or political valence.

The fate of the DAPL standoff resided not only in judicial decisions about the flow of oil. Those who stood on the front lines for clean water, for indigenous struggle, for their ancestors and for our future, were brought to alleged justice in an area with doubtful prospects for anything resembling an impartial jury. North Dakota prosecutor Ladd Erickson told me over the phone that prior to the Standing Rock cases, the only mass arrest incidents that these local counties had dealt with involved breaking up graduation parties of drunk high schoolers. And while thousands flocked to the protest camps, only a few dozen lawyers and supporters remained and returned to continue the arduous and overwhelming task of defending these cases, in an area where towns consist of interconnected parking lots, strip mall restaurants and boxy houses, surrounded by unending sightlines of rolling grassland. When I went to North Dakota in April 2017, 140 defendants still didn't even have legal representation.

"The reality is that the frontlines are in the courthouse now," said Freeman, a former public defender who moved from Colorado to live in North Dakota full time to fight the DAPL arrest cases. She is one among a small cadre of lawyers and legal support workers who put their normal lives on hold

in order to seek justice for water protectors facing trial in the conservative, rural Midwest. "The celebration and camaraderie of the camp—that's gone," she said, "but we're left to stand with people going into the gauntlet, facing incarceration for being who they are."

The Dakota Access Pipeline has since been fully built, following President Donald Trump's January 2017 order to expedite its completion, reversing President Obama's block on the project. In June, crude oil began pumping from North Dakota's Bakken Formation to Illinois, under the Mississippi river and through sacred Lakota land and burial sites. In November 2017, the pipeline spilled over 210,000 gallons over South Dakota farmland. A major spill risks contaminating the main water source of the Standing Rock Sioux and 17 million people who live downstream. The summer prior to the spill, a federal judge ruled that the Army Corps of Engineers, responsible for approving the pipeline's route and completion, had not adequately considered the impacts of a spill into the Missouri River. The decision was a partial victory for the Standing Rock Sioux Tribe, but it was still too little, too late, and oil continues to flow through the DAPL. From February 2017, anti-pipeline activists began to take their fight from North Dakota to new camps across the United States, opposing pipeline construction and fracking operations from Nebraska and Iowa, to Texas, Louisiana and Florida, to Pennsylvania, New Jersey, and Massachusetts.

On the first night I spoke to Sandra Freeman in the dingy apartment rented by her legal collective in Mandan—the small town in which most of the hundreds of state cases were tried—she pulled out a dog-eared map of the area. On it were the lines of the Fort Laramie treaties, which drew up the Great Sioux Reservation in 1851 and 1868. And next to it, Freeman roughly sketched how the land today—the site of the pipeline standoff—is broken up into federal, private and reservation

property. “The history of exploitation and extraction cannot be disconnected from what’s happening here,” she said.

The unbroken American history of native oppression is not lost on Rattler, a marine veteran, truck driver and card-carrying Oglala Lakota Sioux Indian who lives on the Pine Ridge Reservation, South Dakota—designated one of the poorest areas in America. His great-great-great-great-grandfather was Chief Red Cloud, the storied Oglala Lakota leader who oversaw successful campaigns against the US Army in 1866 and signed the 1868 Treaty of Fort Laramie, delineating the Indian Country through which DAPL now runs. Red Cloud died at Pine Ridge in 1909. The same Pine Ridge where over 250 Lakota were massacred and buried in a mass grave in 1890 at Wounded Knee; the same Wounded Knee where, in 1973, American Indian Movement (AIM) activists and supporters from every Indian nation occupied the town. Unlike the Standing Rock standoff, the Wounded Knee occupation was armed. But like the water protectors four decades later, the AIM resistance at Wounded Knee faced militarized, multi-agency law enforcement repression, followed by protracted court battles aimed at defanging and punishing the movement.

And it is with this historic struggle in mind that Freeman chose to join the camp, originally “supporting the DAPL resistance not in [her] capacity as an attorney.” She told me that after seeing water protectors “brutalized by police,” and recognizing the expansive need for legal support, she applied in November to work as the criminal case coordinator for the Water Protector Legal Collective (WPLC)—a group that originated in the camp to provide on-the-ground jail and legal support for arrestees and one of two interconnected, donation-funded groups that would oversee the daunting task of coordinating defense and logistics for hundreds of disparate defendants. The other, the Freshet Collective, would work largely on arrestee support, including paying nearly half a million dollars in cash bail, coordinating criminal defense,

travel, accommodation, and logistics for the out-of-state lawyers and hundreds of defendants who live nowhere near the site of their court dates. Freeman moved to North Dakota for months at a time, leaving behind her family and her regular legal practice in Denver.

“For a lot of the lawyers and the defendants here, there’s a spirituality and a politics involved in this fight that can’t be untangled, and it would be hard to keep working without it. So much out here is hard,” Freeman said. “The attorneys and legal workers who come here, we wake up every morning and put our bodies and spirits upon the gears, upon the wheels, upon the levers, upon all the apparatus of this colonial behemoth—the state violence and repression that is occurring yet again in order to deny indigenous people sovereignty over their own lands in the name of resource extraction.”

The six federal defendants were charged with use of fire to commit an offense and civil disorder, stemming from events on October 27, 2017—a major date in the pipeline standoff on which 141 people were arrested. On that day, police deployed armored vehicles, lashes of pepper spray, and LRAD sound cannons to clear water protectors from one of the campsites, while barricades were set alight and DAPL equipment was damaged. The civil disorder charge is a rarely used federal statute with a fiercely political history: it was passed in the late 1960s at the height of the Black Liberation and anti-war movements; AIM members from the Wounded Knee occupation faced the very same charge.

It was not until January 23, three days after Trump’s inauguration, that the Justice Department moved to file federal charges. This, Freeman said, was “no accident.” Each defendant faced up to fifteen years in prison if convicted.

Meanwhile the state cases were already trickling through Morton County, with hundreds still unresolved. “The size and scope of the thing, it’s overwhelming,” said Freeman.

~

It's hard to imagine a starker optic disconnect than that between the dramatic spectacle of the protest camps, on the one hand, and the boxy, small-town blocks and parking lot grids that make up the nearby cities, on the other. The pipeline fight provided a visual language of indigenous resistance and frontline militarized battle: the bright flags of every tribal nation flying, the temporary tent and tipi towns, hundreds of bold banners, water protectors in traditional dress mounted on horses, law enforcement officers and National Guardsmen in riot gear. Tear gas. Water cannons. Fire.

Just over 70,000 people live in Bismarck, where the federal court is small enough to share a building with the post office—the granite stone entrance of which became a regular backdrop for protests. In bars decked in mock saloon style and American flags, “Backing the Blue: Friends of Law Enforcement” signs are posted in the windows. Neighboring Mandan has a mere 21,769 residents—slightly greater than the population of the protest camps at their largest. Mandan, named after the indigenous tribe that historically lived on that land, has a 90 percent white population and boasts the slogan “*Where the West Begins.*” If you squint, it would almost appear quaint; a late nineteenth-century railroad town with morning-trimmed storefronts and saloons. But to look at it clearly is to see cheap, beige concrete facades and dilapidated motels, sports bars and chain restaurants. It was here that the lawyers and legal support workers would live and work out of a hotel turned flophouse, with a makeshift office on the ground floor. Inside the main building entrance sits an old-timey buggy car—no doubt once an ornament from the hotel days. A Christmas wreath still hung on the wall in mid spring.

The curtains were drawn over the office windows and there were no signs on the door. The legal team worked in one large room with mismatched felt sofas and plastic chairs, a shit-brown carpet, a defunct popcorn machine, and a poster of AIM activist and political prisoner Leonard Peltier pinned to

the wall. According to Freeman and her colleagues, the first two buildings in which they tried to rent turned them down after hearing that they were in town to defend water protectors. “It’s hostile environment here, for sure,” Freeman said.

Rattler, speaking to me in April 2017, told me that in the previous weeks, on two occasions, two different unmarked cars had pulled up beside him on the street; a passenger had brandished a Glock pistol before the vehicles sped away. He said that numerous local residents had driven by and yelled, “Go home!” while he smoked on the porch. “It’s funny, because I want to get out of here, too,” he said. “But part of me wants to yell back, ‘Go home? We were here first!’” He was staying at the home of a member of the local Unitarian Church—a small detached house near the center of Bismarck in a row of small detached houses, built in organized, anonymous, suburban-looking blocks.

I came to North Dakota three months after the February 2017 eviction. Signs had all but disappeared of the once-sprawling camps that had stood forty miles south of Bismarck. You had to look hard to find relics left on the wind-beaten, sand-brown grass—a lone cinder block bearing “#NoDAPL” in black spray paint, or razor wire piled up in a mound by the 1806 Highway, gleaming in the sun. Riot police had used the wire to surround and block off a sacred burial site named Turtle Island after water protectors crossed near-freezing water to pray there in November 2016.

I had traveled to the site with Freeman and some of her coworkers. An ebullient paralegal named Jess, wearing gold eye shadow and a floral skirt, pointed out where each of the various camp areas had stood. She hadn’t returned to the site since the February eviction. Nor had Dandelion Cloverdale, a sex worker and educator from Montana who was working for the Freshet Collective to coordinate travel and lodging for defendants. Cloverdale walked around solemnly, eyes

streaming from the winds blowing sideways on the plains. “It’s sad coming back here, it looks so different,” they said, adding, “It’s hard”—a phrase I heard like a refrain during that trip.

Cloverdale had been the camp manager for the small Two Spirit Nation camp at Standing Rock, which brought together the intersection of the indigenous and LGBTQ struggle and many Two Spirit youth. “Before the occupation there were two teen suicides a month on this reservation” said Cloverdale. “During the occupation, there were none. There was promise and hope; young people believed in themselves.” Native teens and young adults are 1.5 times as likely to kill themselves as the average US resident. The Standing Rock movement’s guiding words, *Mni wiconi* (water is life), meant more than clean water advocacy. Water protectors and land defenders see themselves in a struggle to affirm and sustain *life*, which is as much spiritual as it is material and environmental.

Not all the lawyers and organizers were in North Dakota full-time, as Freeman was; some came for a few weeks at a time for hearings and meetings—a semi-rotating cast of legal activists who would join the close quarters of the Mandan office and apartments. Most nights they would cook and eat vegan food together, crammed into Freeman’s temporary living room on two sofas and the floor. Files and paperwork took up every table surface, with extension cords and wires from four or five laptops at a time snaking around the sparse furniture. Outside of their temporary lodgings, the Freshet and WPLC workers stood out in white Trump country; their ranks included Native Americans, gender nonconforming and queer individuals, trendy New Yorkers and what your grandparents might call hippies. “I was picking someone up from Bismarck airport,” Cloverdale told me, “and a group of white folks told me ‘you need to go home.’ They don’t like out-of-towners around here; they give dirty looks to out-of-state [license] plates.”

Freeman concurred. “I’ve never had to work as a defense attorney and endure this kind of hostile environment,” she said. A longtime activist lawyer, she noted that “unlike movements we’ve seen recently, there’s not a robust well of attorneys here. And the court system could have never anticipated this.”

The state Supreme Court deemed the situation an “emergency affecting the legal system of North Dakota.” Seventy defense lawyers from all over the state were appointed to cases; “typically they live and work about four hours away,” Freeman said. But only about ten local defense counsel were working directly with the WPLC. With only so many barred criminal defense attorneys in North Dakota, a number of whom expressed negative bias against water protectors, the state had to change its rules to let out-of-state lawyers practice in the Standing Rock cases in what’s known as a “pro hac vice” capacity. Pro hac vice lawyers must work with a barred North Dakota counsel; thus, the local lawyers working with the WPLC served as local counsel for around forty to forty-five out-of-state lawyers.

North Dakota as a whole has an entrenched conservative bent, with Republicans in firm control of the state House and executive. Local landowners and residents in the surrounding rural areas described the camps as a source of disruption, crime and vandalism.

“These were situations and circumstances we’d never seen before. It was emotionally, physically and economically taxing to the community,” said Julie Ellingson, the executive vice president of the North Dakota Stockmen’s Association, a trade organization that represents livestock producers. “This is a quiet, agricultural area; the largest cattle producing county in the state,” said Ellingson, who has lived in the area all her life. She told me that during the time of the camps, livestock producers couldn’t move their cattle from field to field, facing

protest-related roadblocks and an alleged uptick in stolen, injured and killed animals.

On top of a uniquely brutal winter, these were unwelcome interruptions that provoked ire against protesters, but not the pipeline that drew them to North Dakota. Ellingson was one among a number of local residents who told me that they believed the pipeline construction abided by relevant laws, regulations and necessary agreements—a view challenged by the (equally local) Standing Rock Sioux and their federal court victory over the lack of adequate environmental studies and adherence to treaty protections. Ellingson said that locals felt like “collateral damage” in the Standing Rock standoff—an opinion echoed by Jerry Hintz, who along with his wife owns a popular local tea shop and café in Bismarck.

I met Hintz, a friendly, athletic forty-six-year-old with a shaved head and bright blue eyes, in his well-lit shop just a short walk from the federal court-cum-post office. The gray day poured in through the store’s glass front, deadening any touches of coziness in the strip mall space, which shares a bland Bismarck block with a Burger King. “Nobody in the media came to talk to the locals. They didn’t hear about how our businesses were affected, or about how police officers and their families were threatened,” said Hintz, who had joined hundreds of North Dakotans in a “Backing to Blue” rally last November; he told me of “fierce loyalty” in the area to law enforcement and the military, speaking of “agitators,” “trolls” and “criminals” from the camps; “We wanted to be left alone,” he said.

Local fear and antipathy was further stoked through the concerted efforts of law enforcement officers, county authorities and mercenary security contractors (hired by DAPL owner Energy Transfer Partners) who spent months painting the water protectors as criminals and security threats. The *Intercept*’s May 2017 leaks of documents from international security firm TigerSwan confirm that its contractors, working

with law enforcement agencies, carried out explicit propaganda campaigns through local news and social media to demonize the protesters.

It worked. A survey conducted by consulting firm The National Jury Project in the relevant counties—Morton and Burleigh—found that 77 percent of the jury-eligible population in the former, which covers Mandan, and 85 percent in the latter, which covers Bismarck, had already decided the water protectors were guilty. “A substantial number of the surveyed population have connections to law enforcement, the oil industry, landowners and others who have been affected by the protests,” the survey results stated, noting, “Many respondents made statements indicating that they perceive protesters as a threat to community safety and described the water protectors as ‘eco terrorists,’ ‘criminals,’ and ‘idiots’ who ‘hopefully all freeze to death.’” One hundred percent of respondents admitted prior knowledge of the issues involved in the cases. Motions were filed by attorneys in both state and federal court for a change of venue, to move the cases out of rural areas directly affected by the camps; they were denied.

For Freeman, the jury survey was a reflection of the sort of hostility she and her clients and colleagues have felt in the area, and the urgency that they be permitted to leave. “It’s also why we are trying to have Rattler’s bail conditions relaxed as soon as possible,” she said. “This is a threatening environment.”

State prosecutor Ladd Erickson, known for theatrical language in court and chain smoking outside of it, told me, “The fatigue the whole area felt—it got raw.” A striking admission, from a prosecutor, about the risk of local bias. If the whole area was affected, I asked, how could impartial jurors be found for all these cases? “It’s challenging,” he admitted, before asserting swiftly that fair juries were nonetheless being found. He stressed that contrary to charges of racism in the area against Indians, his Native American friends (“my guys” as he called them) in the sheriff’s department were also burned out by the

camps. The same state's attorney filed motions in December 2017 to disallow defendants from mentioning the following in court: "historical treaties between the US Government and the Sioux Nation; tribal sovereignty; the merits and demerits of the Dakota Access Pipeline; climate change; sacred sites." Erickson argued these issues had "no relevance" to the criminal cases at hand.

If an individual defendant *did* want to raise the fact that 99 percent of the arrests took place on land accorded to the Lakota Tribe in either the 1851 or 1858 Fort Laramie treaties, the point would have had little legal traction. But if these treaties—harsh compromises in and of themselves—were truly respected, none of these trials would be happening: state and federal powers have no jurisdiction on treaty land. Indeed, if they had been historically honored, there would be no DAPL in the first place. The grim irony that many of the arrests led to trespass charges for natives on what should be their land is one that animates the history of this country.

The attorney noted that there is hardly anywhere to bring an argument from a sovereign nation's claim; international courts are not going to weigh in on the Standing Rock criminal trials. But according to the lawyers I spoke to, including Bruce Ellison—a veteran attorney who represented AIM leaders after the 1973 standoff and continues to represent Leonard Peltier as well as a number of Standing Rock defendants—many of the cases are eminently defensible on points of law and proof, regardless of a treaty defense. The challenge is to defend that which they believe to be defensible in this tough rural context, where a small legal operation has had to handle hundreds of cases.

After a group dinner in her living room one night, Freeman and I sat in her equally jumbled adjoining bedroom. "In these cases we have both law and proof on our side. But really," she said, with a quiver to her voice, "it's the righteousness of it."

~

In April 2018, WPLC published a tally of case statistics. Of the 831 arrests, 578 cases had concluded, with 337 won through dismissal or acquittal at trial; 226 water protectors have accepted some sort of pretrial agreement, but none that requires cooperation with the government in other defendants' prosecutions. Over half of these agreements were "pretrial diversions"—delayed dismissals that do not entail an admission of guilt. One hundred and forty-four trials were still to begin.

Accounting for every arrestee and finding each defendant appropriate representation constituted a mammoth task in and of itself. In the meantime, Freshet and WPLC worked with the local lawyers to build collective defense strategies around major days of mass arrests—like October 27—from which scores of protesters faced similar charges, and for which allegations of infirm arrest and police brutality were numerous.

And for the prosecutors, mass arrest days, which involved law enforcement officers from around the country and state, have proven a challenge. "The prosecution is realizing that they can't make out the elements of the charged offenses," said Moira Meltzer-Cohen, a New York-based attorney who has traveled back and forth to North Dakota to represent nine defendants with cases in state court in Mandan. "Some of their cases have been dismissed by judges, and also because, having brought in law enforcement from all over the country, those extra-jurisdictional cops made arrests, failed to complete any meaningful paperwork, went home, and are not keen to return to testify about something that happened in a chaotic environment months ago," she said, noting that without evidence showing individualized probable cause and without witnesses, the prosecution has dismissed some charges, which should never have been brought. Meltzer-Cohen, whom I've known for many years through her work on activist cases in New York, called the legal situation "a mess."

Local paper, the *Bismarck Tribune*, which skewed dramatically against protesters and in favor of law enforcement in its editorial pages, took acquittals at trial as an occasion to opine that “the system works for everyone.” Meltzer-Cohen scoffed at the editorial. “They had to acquit,” she said. “There was absolutely no basis for the charges.”

The lawyer did not see the wave of dismissals as an outright victory, but evidence of vast police misconduct and original prosecutorial overreach. “The way the cops use arrest as a form of crowd control dovetails so neatly with the way prosecutors drain us, even without getting any results. It’s such a stupid war of attrition, with such Pyrrhic victories on both ends,” she said.

During the camp protests, the pipeline was dubbed “the black snake.” But for the Lakota, the black snake is not just one pipeline. It harkens back to a prophecy in which a great black snake would come to the Lakota lands and devastate the earth. According to the prophecy, it would be the youth who would rise up to slay the black snake—a detail not lost on the Standing Rock Sioux youth who were the first to set up camp against the pipeline in April 2016.

“The black snake is greed and violence and oppression; we have to come together to fight more than just one pipeline to defeat the black snake,” said Rattler as we sat in the warm, wood-accented living room. Depending on one’s spiritual orientation, there could be either irony or destiny in the fact of Rattler’s position as a high-profile defendant in the Standing Rock trials. He earned his name during his Marine Corps service in the early 1990s. One night, he was sleeping outside at boot camp in Pendleton, California—diamondback rattlesnake territory—when he felt a weight along the side of his body. He carefully felt along the mass. A six-foot-long poisonous diamondback had wedged itself, head down, along the side of his sleeping bag. In one move, Rattler grabbed

his service knife, grabbed the snake, and cut off its head. His lieutenant, emerging from a tent, looked on. Rattler retells the story with gusto, a grin and dramatic hand gestures. “I was known for pissing off dangerous snakes,” he said. The name Rattler stuck, now an appropriate *nom de guerre* for a man who came to North Dakota to fight the black snake, and whose liberty has been threatened because of it.

Back in South Dakota, Rattler worked as a truck driver and a handyman, preferring to barter his trades and skills for items he needed to live, rather than money. Ceremony was already part of his life, as an entrusted Lakota pipe carrier—an honored role in ceremonial practice and tradition. He had first come to Standing Rock to deliver donated supplies from Pine Ridge in Betty Boop (his truck, for which he uses biofuel whenever possible). He made three return trips, until one event in September 2016 prompted him to stay for good.

In early September, protesters claimed that private DAPL security guards released attack dogs and sprayed mace on protesters. A spokesperson for Energy Transfer Partners told press at the time that protesters had “attacked” its workers first, but footage of clashes between law enforcement and water protectors catalyzed national attention. “After the dog attacks I knew I had to stay; it’s in my nature to want to protect people,” Rattler said. Freeman nodded as she listened to him, a hand on his shoulder. In that sense, they both had stayed in North Dakota for the very same reason—as protectors.

During his months stuck in Bismarck, the water protector waited and prayed. Most days, he stayed inside, reading, writing and sketching. Rattler reread letters of support and solidarity he received from supporters around the country while he was in jail. “I even got some postcards from a woman in France,” he said, leaping up to pull from a cabinet a pile of assorted, well-handled cards and papers. He has also been working on a children’s book, he told me—a story about a young indigenous boy and his adventures in precolonial times.

He wants to give children “an image of what we looked like, before Hollywood made us look like savages.”

“I’m not smart about a lot of things. I’m more of an action guy. But I have 100 percent trust in them,” he said turning to Freeman and wrapping her in a vast hug. “My life is in their hands,” he said. When we returned to her apartment above the office that night, Freeman briefly burst into tears, wiped her eyes, and got back to work.

Addendum: As his trial neared in January 2018, Rattler made the difficult decision to take a non-cooperating plea agreement, rather than risk a minimum of fifteen years in prison were he to be found guilty at trial. In late September 2018, Rattler was sentenced to a 36-month federal prison sentence, which began in November. “I am praying that they have the strength to keep up the fight and to get more people out there,” said the water protector in a press release following his sentencing. “Standing Rock was a training ground. It was started by children, by the youth. Those are the generations that we’re thinking about. What are we going to leave them—birds, animals, rivers? What kind of legacy do you want to leave your children? For rich people, it’s a big bank account. For me it’s Mni Wiconi—water is life.”