LAWSUIT OVER SHOT-DOWN DRONE COULD SET U.S. LAW

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He calls himself the “Drone Slayer.” And William Merideth, who shot down a drone over his Hillview home last summer, says he’d “do it again, with a smile.”

Dismissing criminal charges against him for firing a gun within city limits, a judge said Merideth was within his rights when he took out the $1,800 unmanned aircraft, which Merideth said he feared was peeping on his teenaged daughters on the back porch.

But a lawsuit filed this month by the drone’s owner, John David Boggs, could settle an issue that experts say has never before been addressed by the courts: the conflict between a homeowner’s right to privacy and the federal government’s exclusive sovereignty over the skies.

The Federal Aviation Administration says it has sole authority over the national airspace, while Kentucky law gives landowners the right to use force necessary to prevent trespassing.

The Supreme Court hasn’t addressed the issue since 1946 when it ruled that a North Carolina farmer could assert property rights up to 83 feet in the air — and win compensation for military

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aircraft that were flying so low they were disturbing his cows and chickens.

But that was long before the advent of drones, which are now used for everything from law enforcement to land surveys, from search and rescue to wildlife tracking. Best Buy offers 50 models just for photo hobbyists, while more than 50 companies produce 155 models in the U.S., with wingspans ranging from 6 inches to 246 feet.

“We can all agree that if Southwest Airlines flies over your backyard at 30,000 feet, you have no right to privacy,” John Villasenor, a visiting law professor at UCLA and a nonresident fellow at the Center for Technology at the Brookings Institution, said. “But what about a drone flying at 3 feet?”

Critics say misusing a drone to spy on a neighbor is no different than climbing a ladder to look into their upstairs window.

Boggs says in his lawsuit that he wasn’t peeping and that he filed his suit Jan. 4 to win “clarity to protect the right to fly responsibly without fear of being shot at.”

The last image shot by the drone that was shot down. Its owner says it shows he wasn't peeping on his father's neighbor. *(Photo: Boggs v. Merideth, U.S. District Court)*

Merideth also says he looks forward to the court’s resolution of where private property ends and the open sky begins.

Boggs’ Nashville lawyer, James Mackler, a former Army Blackhawk helicopter pilot who specializes in drone law, says much is at stake, including for companies like Amazon, which plans to deliver packages to customers via drones that would touch down on their lawns.

“If every property owner has a right to take a shot at them, that pretty much ends that business model,” Mackler said.

Boggs asks for damages for his aircraft and for U.S. District Judge David J. Hale to resolve the

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“boundaries of the airspace surrounding real property, the reasonable expectation of privacy as viewed from the air, and the right to damage or destroy an aircraft in flight.”

The litigation comes as the use of drones, and the potential for disasters proliferates.

Reports of drone sightings by pilots grew from 238 in all of 2014 to 780 in the first eight months of 2015, the FAA says, and firefighters had to ground their aircraft in the Western U.S. last summer because of the presence of multiple sightings. The Secret Service went on high alert after one man flew a drone over the White House and another crash-landed one on the White House lawn.

Hobby drones also were shot down last year in New Jersey and California, leading to the arrest of shooters in both states.

State and local governments also are moving swiftly to regulate drones, despite the FAA’s claim to sole authority over aircraft operations. Last year, 45 states considered 168 bills to regulate them, and 26 states enacted new laws.

In the Kentucky General Assembly, at least two bills are pending, including one filed by Rep. Linda Belcher that would prohibit the use of drones for harassment, voyeurism or to aid burglaries.

Belcher said she doesn’t know Merideth or Boggs and isn’t taking sides.

“We need to protect both sides and let everybody know what the law is,” she said in an interview.

Hillview Mayor Jim Eadens said the absence of clear laws has left his department “twisting in the wind.”

“I know one thing — if we start having open season on drones, somebody is going to get hurt,” he said.

The 175,000-member Academy of Model Aeronautics, founded in 1936, says it welcomes guidance from the federal courts but that states already have enough laws on the books that make harassment and peeping a crime.

The group, based in Muncie, Ind., says its policies already ban members from flying directly over unprotected people or houses or flying near an airport.

And Rick Hanson, its government and regulatory affairs representative, notes Congress in 2012 enacted a law that bars drones and model aircraft owners from interfering with other aircraft and says they must be operated within direct sight of the owner.

The group successfully lobbied California Gov. Jerry Brown in September to veto a state law that would have prohibited flying a drone less than 350 feet above private property without the property owner’s permission. Brown said the law, while well-intentioned, would expose hobbyists and commercial users to “burdensome litigation.”

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The drone model that was shot down *(Photo: DJI)*

In Kentucky, the drone dispute began on July 26, when Merideth used a shotgun to blast Boggs' DJI Phantom 3 Pro from the air.

Bogg says in his suit that he was flying it at about 200 feet — and neither trespassing nor spying on Merideth's family — when his unmanned aircraft system, or UAS, as they are known, was taken out two minutes into its flight.

In an exhibit attached to his suit, Boggs presents the last image shot from the drone — a photo of forests, streets and rolling hills.

"At no time was plaintiff capturing video or still images of defendant or anyone on his property," the suit says.

But Merideth, who goes by Willie, has said he saw the drone about 10 feet over the roof line by his neighbor's house, looking under a canopy, and later hovering over his own property.

He told WDRB.com after the shooting that Boggs, with three other men, later confronted him, asking, " 'Are you the SOB that shot my drone?' and I said, 'Yes I am.' I had my 40mm Glock on me and they started toward me and I told them, 'If you cross my sidewalk, there's gonna be another shooting.' "

Hillview Police charged Merideth with wanton endangerment and criminal mischief for firing a gun within city limits, but District Judge Rebecca Ward later dismissed the charges.

Merideth and his supporters have embraced the notoriety, selling "Drone Slayer" T-shirts that show a drone in the cross-hairs over the words, "We the People ... have had enough."

Merideth says that he called police on two previous occasions when he saw the drone hovering over his property, but he said they told him they couldn't do anything about it. He said that led him

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to take matters into his own hands.

“At some point,” he said, “Enough is enough.”

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