

Jailed US nuclear scientist granted bail as government case unravels

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A federal judge has granted bail to Wen Ho Lee, the Asian-American nuclear physicist who has been held in solitary confinement for eight months. Lee is the target of a government and media witch hunt on charges of espionage at the Los Alamos, New Mexico weapons laboratory.

US District Judge James A. Parker, who had denied two previous bail applications, reversed himself August 24 and ordered a hearing for Tuesday, August 29, at which the terms of Lee's release will be spelled out. He acted after a three-day bail hearing that featured the testimony of Robert Messemmer, formerly the lead FBI agent in the case, which punctured the government's case against the Taiwanese-American scientist.

Lee will be held under virtual house arrest, with only his wife permitted to share his confinement, and visits from friends and relatives closely monitored. Bond will be set at \$1 million, which supporters have already raised by mortgaging their homes. Despite these conditions, his release was greeted with enthusiasm by his family, lawyers and supporters, since Judge Parker effectively rejected the central thrust of the government's case, the claim that Lee had stolen nuclear weapons information so dangerous that he was a threat to humanity.

At one point in the bail hearing, the lead prosecutor, Deputy US Attorney George Stambolitis, warned apocalyptically that Lee's actions were "of a caliber where hundreds of millions of people could be killed." Prosecutors and Department of Energy officials have insisted that Lee be held in solitary confinement, shackled during his infrequent exercise periods, and cut off from contact with relatives and friends. They demanded that he not be permitted to speak with visitors in Chinese—the language he and his wife use in their home—claiming that even a single unsupervised sentence could be the vehicle for transmitting vital nuclear secrets.

Defense attorneys convinced Judge Parker to reverse his

previous denial of bail by demonstrating that the FBI and government prosecutors had grossly distorted the facts of the case at the two earlier bail hearings. The high point of their exposure was the testimony of Messemmer, who had been the principal FBI witness at the first hearing.

Messemmer admitted that at last December's bail hearing he had made three major "misstatements"—in reality gross lies which would have subjected anyone but an FBI agent to perjury charges.

* He told the December hearing that Wen Ho Lee had lied to a fellow scientist when borrowing a computer to download data onto portable computer tapes. Messemmer testified in the previous bail hearing that Lee had told the scientist he was copying a resume. The other scientist has contradicted this version of events, and Messemmer now concedes that Lee never used the word "resume," but rather told his colleague that he was downloading data. In his ruling in December denying bail, Judge Parker cited this charge of deceptiveness on Lee's part as "very troubling."

* Messemmer claimed at the initial hearing that Lee had not disclosed a meeting with Chinese scientists during a trip to Beijing in 1986, which had been approved by the Los Alamos lab. Lee's lawyers produced a document showing that Lee had reported the meeting fully to lab security—a document that Messemmer claimed never to have seen.

* Messemmer testified in December that an FBI search of Lee's home had uncovered letters written to six overseas nuclear institutes applying for jobs. But Messemmer conceded this week that while drafts of the letters had been found on Lee's home computer, there was no indication he had ever sent them, or that any of the overseas institutes had received them. This undermines the latest prosecution theory of the case. Lacking any evidence of intent to commit espionage, the prosecution now claims that Lee copied data to assist in obtaining a

new weapons-related job in a foreign country.

Messemer made another admission that exposes high-level lying about the case by Clinton administration officials. When Wen Ho Lee was fired in March 1999 after press reports of alleged spying at Los Alamos, Energy Secretary Bill Richardson told reporters that the scientist had failed a lie detector test. But Messemer testified that Lee had passed a polygraph exam administered by Wackenhut Corporation, a security contractor at the weapons lab.

Under questioning by defense lawyer Mark Holscher, Messemer said he was aware that Lee had scored among the highest possible scores for credibility on the test when he denied passing secrets, denied contacting anyone for the purpose of espionage and denied intending to harm the United States.

The FBI agent also gave a picture of the brutal intimidation of Lee during an intensive interrogation on March 7, 1999. On that day FBI agents warned the Taiwanese-American scientist that he had failed his lie detector test, which was not true. They threatened that he could be given the death penalty for stealing nuclear secrets, repeatedly citing the execution of Julius and Ethel Rosenberg, Communist Party supporters sent to the electric chair in 1953 after a frame-up trial as “atom spies.” Until that day, Messemer said, Lee had voluntarily met with the FBI on 20 occasions, without requesting a lawyer. Since then he has refused to meet with government agents.

Other testimony at the bail hearing further undermined the government's allegations. While FBI and Energy Department officials have described the 800 megabytes of data downloaded by Lee as the “crown jewels” of the US nuclear weapons program, several expert witnesses, including John Richter, a Los Alamos weapons designer, and Harold Agnew, former director of the lab, derided these claims, saying that the information was widely published and easily available. They said the extravagant claims of the prosecution were meant to intimidate the judge into first rejecting Lee's bail application, and then continuing to deny bail. They noted, moreover, that the information in question was not even classified as secret at the time that Lee downloaded it onto tapes.

The outcome of the bail hearing was such a political blow to the government campaign that much of the American media has been compelled to urge Lee's immediate release, including such major daily newspapers as the *Chicago Tribune*, the *Los Angeles Times* and the *New York Times*. The editorial Friday in the *New York*

Times is particularly hypocritical, since it makes no mention of the leading role that newspaper played in engineering the Los Alamos spy scare.

Federal authorities began the investigation into possible atomic spying by the Peoples Republic of China after a CIA source in China claimed to have uncovered evidence that China was in possession of design secrets for the W-88 warhead, a miniaturized nuclear weapon that is one of the most advanced in the US arsenal. The CIA and FBI later concluded that the source was, in fact, a Chinese intelligence double agent engaged in a sting operation, and that there was no evidence of actual espionage.

Republican congressional sources leaked reports of this abortive investigation to the *Times*, which published a lurid front-page report on March 6, 1999, alleging that the greatest security failure in modern US history had taken place at Los Alamos. The *Times* described an unnamed Chinese-American scientist at Los Alamos as the principal suspect, and claimed that he had failed a lie detector test—a smear against Wen Ho Lee.

As in the impeachment campaign—which had just ended in failure the month before, with Clinton's acquittal in the Senate—the *Times* made itself the conduit for a politically motivated attack by extreme-right elements in Congress seeking to destabilize the Clinton administration. The only difference in this case is that the Clinton administration adopted a different tactic—one that was obviously impossible with impeachment. It sought to preempt the anti-Chinese witch-hunting by the congressional Republicans by embracing the right-wing spy scare as its own.

As a result of this cynical gang-up between the congressional Republicans, the Clinton White House, and the corporate-controlled media, an innocent man has been targeted for two years of persecution, including eight months of solitary confinement under brutal conditions.



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