

Judge orders prosecution to explain stonewalling in Bradley Manning case

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During a hearing at Fort Meade, Maryland Monday, a military judge ordered Army prosecutors to address accusations that they have withheld evidence from the defense team of accused whistleblower Bradley Manning.

The Obama administration has refused to provide the defense with damage assessments on the impact of information that Private Manning is accused of leaking, although the prosecution is using the material in its case against the former Army intelligence analyst.

The 24-year-old soldier, who has now been held for more than two years without being convicted of a crime, faces 22 counts under the Espionage Act. Manning is accused of leaking hundreds of thousands of classified documents and files, including evidence of US war crimes committed in Iraq. Prosecutors have said they are pursuing a sentence of life in prison for “aiding the enemy.”

Manning has yet to enter a plea or chosen whether to be tried by a judge or a jury in his court martial. The court martial has been pushed back from September to sometime between November and January.

The government has centered its charge of “aiding the enemy” against Manning on the claim that the leaked material endangers US military personnel because it is now available on the Internet and can be viewed by Al Qaeda or other declared enemies of the US.

If Manning is convicted on such an argument, the case will set a precedent for future prosecutions, first and foremost that of WikiLeaks founder Julian Assange. Assange is currently seeking asylum in Ecuador to avoid extradition to Sweden, where he is vulnerable to a second extradition to the US. (See, “New evidence of US operation against Julian Assange”) The case carries far-reaching implications for other

whistleblowers, the press, and anyone accessing information deemed sensitive to US interests via the Internet.

The ruling Monday by Colonel Denise Lind, the sitting judge in the hearing, requires the government to draft a “due diligence” statement to explain its efforts to follow so-called “discovery rules,” under which prosecution is obligated to share material it obtains with the defense.

Manning’s civilian defense lawyer, David Coombs, has maintained that the government is stonewalling because the damage assessments are likely to show that there is no connection between the release of the material and any troop casualties. During proceedings, Coombs accused the prosecution of lying about complying with discovery rules.

“Normally, these games are not played,” Coombs said to head prosecutor Major Ashden Fein. “You hand over discovery and let the facts speak. You don’t play hide the ball, and that’s what the government’s been doing.”

Fein told the court, “The defense is receiving the information they’re entitled to receive.”

Lind ordered Fein to submit a draft statement by July 25. Her ruling does not grant the defense access to the full damage assessments; to date, Manning’s lawyers have been issued only a glimpse of redacted “summaries” of damage assessments. These summaries are being held in the Defense Intelligence Agency headquarters. They are not publicly available.

In Monday’s hearing, Lind ordered the prosecution to provide her with copies of damage assessments prepared by the CIA, FBI, and a range of other agencies. Concluding the last round of hearings June 8, Lind rejected a motion that the defense be provided copies of the actual reports. A redacted summary, she

insisted, “strikes a proper balance between the rights of the accused and national security interests.” (See, “Bradley Manning’s motions to dismiss charges rejected”)

Coombs told the court Monday that the prosecution has kept Manning’s team in the dark about the very existence of some damage assessments, including one by the Department of Homeland Security. The defense was only made aware of the DHS report after the June 8 hearing was brought to a close.

The hearings have been held under an unprecedented veil of secrecy. No court records or transcripts have been made available to the public or the press. Reporters covering the trial have been denied the use of electronic devices.

According to journalist Alexa O’Brien, only four reporters were present in the Fort Meade press room on June 25. Military “public affairs” officers closed the room during Manning’s motion hearing, then threatened to arrest or revoke the credentials of journalists who raised objections. O’Brien reported that she and two others—one reporter from the Associated Press and another from Courthouse News—were threatened with arrest and flanked by police during the proceedings.



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