

US appeals court upholds vindictive ten-year sentence against civil liberties attorney Lynne Stewart

Peter Daniels
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A three-judge panel of the 2nd Circuit of the US Court of Appeals has upheld the vindictive ten-year prison sentence imposed two years ago on disbarred civil liberties lawyer Lynne Stewart.

The attack on the 72-year-old attorney stems from her representation of Sheik Omar Abdul Rahman, who was convicted in 1995 of a plot to blow up New York City landmarks. Stewart was victimized because she violated administrative guidelines by transmitting Rahman's views to the media.

The case against Stewart goes back nearly a decade. She was convicted in 2005 and sentenced in 2006 to a term of 28 months in prison. At that time, District Judge John G. Koeltl rejected the government's demand for a 30-year sentence.

Authorities in the Justice Department and elsewhere were enraged by the relatively light sentence. Three years later, in November 2009, the Court of Appeals upheld the conviction, revoked Stewart's bail, and sent an unmistakably sharp message to the lower court, instructing Koeltl to reconsider the sentence. The judge did so eight months later when he resentedenced Stewart to a ten-year term.

The decision upholding this sentence, handed down June 28, was virtually inevitable, considering that the three-judge panel—Judges Robert Sack, Guido Calabresi and John Walker—was identical to the panel that issued the ruling in 2009. Last week's opinion was written by Sack. It dismissed Stewart's argument that she was being punished for exercising her right to free speech. In lengthening the sentence, the authorities had seized on comments she made in a television interview and a press conference.

In 2009, Stewart told Amy Goodman of the

"Democracy Now" program, "I'd like to think I would not do anything differently. I had no criminal intent whatsoever. This was a considered decision based on the need of the client." This statement was turned by the court into evidence of a lack of "remorse," justifying the quadrupling of the original sentence.

"Stewart has persisted in exhibiting what seems to be a stark inability to understand the seriousness of her crimes," Judge Sack wrote. "Cobbling together scraps of First Amendment doctrine and dicta for support, [Stewart] contends that she was punished for what she said, and that such punishment runs afoul of the First Amendment," he continued.

The latest opinion went out of its way to praise Judge Koeltl for the unprecedented quadrupling of the sentence. It said that the judge was "determining the characteristics of the defendant, which were legally relevant to a determination of the appropriate sentence to impose on Stewart, through the contents of statements she voluntarily and publicly made."

One of Stewart's lawyers, Herald Price Fahringer, said that an appeal to the full appeals court would be made, and that attorneys might eventually ask for a Supreme Court review. The opinion is a "terrible deterrent for people speaking out in public," Fahringer said.

Another attorney for Stewart, Jill R. Shellow, said, "Our intent is to pursue all of the legal remedies available to Lynne to redress her unreasonable sentence... Lynne was not and is not a terrorist. She was a fine and dedicated lawyer. She is almost 73, and under the best of circumstances will not be released from prison until 2018. That's a lifetime, her lifetime."

The vindictiveness of the appellate judges compares

with the inability and unwillingness of any court up to the Supreme Court to put a halt to the genuinely criminal activities that continue to be carried out at the Guantanamo Bay prison, not to mention the drone attacks and other violations of international law by the Obama administration that provoked the condemnation of former US president Jimmy Carter this past week.

While the US government carries out acts of premeditated mass murder, the appellate judges lecture the civil liberties attorney about “the breadth and depth of the danger in which [her crimes] placed the lives and safety of unknown innocents, and the extent to which they constituted an abuse of her trust and privilege as a member of the bar.”

The attack on Stewart is consistent with the brutal treatment that has been meted out to Bradley Manning, the army private who has been jailed for nearly two years awaiting trial on charges of having leaked evidence of war crimes to WikiLeaks, and a further indication of why WikiLeaks founder Julian Assange has been seeking asylum in the Ecuadorian embassy in London rather than expose himself to likely extradition to the US.

Behind the treatment of Stewart is the calculated effort to use her example to intimidate other lawyers who take on politically unpopular cases and fight to defend basic civil liberties that are under attack.



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