

US Army judge rejects motion to dismiss charges in Bradley Manning case

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Accused US Army whistleblower Bradley Manning was subjected to illegal pretrial punishment, a military judge ruled January 8, but announced that any potential sentence would be reduced by only 112 days.

The anti-democratic ruling came during the latest pretrial motion hearing for the 25-year-old Army private at Fort Meade, Maryland. Manning faces a possible life sentence on 22 charges for allegedly leaking hundreds of thousands of classified military and government documents.

On Wednesday afternoon, government prosecutors said they planned to present evidence that Al Qaeda members, including Osama bin Laden, directly benefited from the publication of materials Manning is charged with leaking.

In hearings that concluded December 11, David Coombs, Manning's civilian lawyer, had asked the judge, Army Colonel Denise Lind, to dismiss the charges on the grounds that abusive conditions suffered by the young soldier constituted illegal pre-trial punishment. The judge rejected this argument on Tuesday. "The charges are serious in this case and there was no intent to punish," Lind declared. Brig staff intended to ensure that Manning "did not hurt or kill himself and was present for trial... There is no argument to dismiss the charges."

Outside of a full dismissal of charges, Manning's defense team had sought to at least have sentencing reduced by counting each day of his Quantico imprisonment as 10 days served. This Lind also refused, deciding only to grant a one-to-one ratio for select days over the nine-month period, as the government prosecution had offered.

Between July 2010 and April 2011, Manning was held at Quantico Marine brig in Virginia. There he was held in a tiny windowless cell for 23 hours a day. He was denied basic personal effects such as his glasses, bedding or toilet paper. Kept under constant surveillance and forced to wear a "suicide smock" at night, he was awakened for

turning away from a bright guard's light. He was denied exercise in his cell, restrained in shackles, given only 20 minutes of "sunshine call" outside, subjected to forced nudity and bullied by guards.

His treatment was closely managed by Quantico officers, who answered to Lieutenant General George Flynn in the Pentagon. Coombs charged that brig officials, acting at the behest of the Obama administration, held the private in abusive conditions under a pretense of protecting him from self-harm, while disregarding psychiatric recommendations that Manning be treated less severely. Extensive testimony last month from brig psychiatrists, guards, and Manning himself, pointed to political motivations behind the abuse.

Lind rejected the defense argument that the Obama administration and military hierarchy exercised unlawful command influence over Manning's day-to-day conditions. Flynn, she said, was merely concerned that brig staff took the "high ground" so that Manning would not harm himself. Manning was "not held" in solitary confinement, Lind declared, because due to the constant presence of guards, he was not "alone and without human contact."

Lind dismissed that the brig's refusal to grant Manning a visit by Juan Mendez, the UN special rapporteur on torture, Congressman Dennis Kucinich and others, constituted a form of punishment. These were not "official visits," she stated, and therefore it was permissible for the Quantico staff to deny an unmonitored interaction.

Also on Tuesday, the government prosecutors moved to preclude discussions over Manning's motive in leaking material, including evidence of war crimes. Prosecutors have asserted that Manning's motivation—which the defense argues was one of conscience—is irrelevant from intent.

The prosecution introduced a second motion prohibiting

courtroom discussion over the question of over-classification of documents on the part of the government. The Obama administration, which has prosecuted a record number of whistleblowers and classified a higher proportion of material than the Bush administration, is seeking to avoid any challenge to government secrecy.

Moreover, any analysis of the material attributed to Manning's activity that was subsequently published by WikiLeaks may simultaneously draw public attention to the war crimes of the government and undermine the prosecution's case that the leaks represented "aiding the enemy" by endangering US troops. For these reasons, the government is moving to preemptively disarm the defense of its whistleblower argument, stripping Manning of any legal rights.

Lind is scheduled to rule on these motions during a hearing January 16-17. Manning's full court martial trial, which was slated for March 6, has been pushed back until June 3. By that time, he will have been held for nearly 1,100 days without being convicted of a crime.

Citing a Civil War-era espionage case Tuesday, Captain Angel Overgaard, a government lawyer, insisted that military courts have recognized that "publishing information in a newspaper" can "indirectly convey information to the enemy," thereby aiding the latter.

Coombs countered by pointing out that the case in question involved coded information disguised as an advertisement, not providing information openly to the press. "There's been no case in the entire history of military jurisprudence that dealt with somebody providing information to a legitimate journalistic organization and having them publish it and that involved dealing with the enemy," Coombs said.

It is worth noting that in the government-cited case, Union Private Henry Vanderwater, found guilty of aiding the enemy by providing a command roster that was published, was sentenced to only three months' hard labor and dishonorable discharge. Manning, by contrast, has already been imprisoned for three years and may spend the rest of his life behind bars.

Prosecutor Joe Morrow claimed on Wednesday that the government had "digital media found during the UBL [Osama bin Laden] raid" that implicated Manning and WikiLeaks, such as a "letter from UBL to Al Qaeda requesting a member gather information." A letter in response allegedly included some war logs from Iraq and Afghanistan and State Department cables.

If the prosecution's argument is upheld, the case will set a precedent for treating WikiLeaks, the media and the

Internet as a whole as an extension of the battlefield, in which whistleblowers, journalists and others may be charged with aiding terrorism. WikiLeaks founder Julian Assange, along with volunteers, contributors, and virtually anyone who accesses the whistleblower organization's web site, may be targeted for aiding terrorism.

Significantly, Lind questioned the government prosecutors: "If we substituted the *New York Times* for WikiLeaks, would you still charge Bradley Manning in the way that you have?" Without hesitating, the prosecution said it would.

Underscoring the anti-democratic character of the hearings themselves, no written transcript of the rulings or court proceedings has been issued for public review. Journalists in attendance are forbidden the use of electronic devices in the courtroom and are shuffled in and out by military guards. Expressing frustration over the Army's restrictions, *Firedoglake.com* blogger Kevin Gosztola described Tuesday's hearing as "a completely flagrant abuse of secrecy powers."

"The judge read a ruling for over one hour and a half and the entire press pool scrambled to keep up with what she was reading," Gosztola commented. "There were no breaks. She read the entire ruling, which was probably at least fifty pages if not more."

Given the magnitude of the case, the minimal coverage in the US media is notable. The national evening news programs—including on ABC, CBS, NBC, cable news channels CNN and MSNBC—carried no reports on the case. Very little of substance concerning the courtroom proceedings has reached the American public.



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