

Bradley Manning denied whistleblower defense

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The defense team for Army Private Bradley Manning will not be allowed to present evidence of his motives behind the intelligence leaks for which he faces 22 charges, a military judge ruled Thursday. The ruling, which is not available to the press or the public, underscores the fraudulent and anti-democratic character of the entire case.

The 25-year-old soldier is accused of transmitting hundreds of thousands of government and military documents to whistleblower organization WikiLeaks, which published the material. Among the documents were evidence of war crimes, including a video WikiLeaks published under the name “Collateral Murder,” showing US military helicopters gunning down Iraqi civilians, journalists and first responders in cold blood. Other documents made clear that the US vastly underreported civilian casualties in Afghanistan.

Army Colonel Denise Lind, the judge overseeing the ongoing pretrial hearings at Fort Meade, Maryland, granted a government motion that questions of conscience and “good faith” are irrelevant in the case. This strips Manning of any potential legal protection offered under a whistleblower status and prevents any discussion of the content of the leaked material from reaching the American public.

Manning was detained on May 26, 2010, after computer hacker Adrian Lamo turned a series of chat conversations over to the US government. In the logs, Manning allegedly described collecting the materials while working as an Army intelligence analyst in Baghdad. He reportedly told Lamo that he felt compelled to act out of good conscience. The government and military networks, he said, contained “incredible things, awful things...that belonged in the public domain, and not on some server stored in a dark room in Washington DC.”

Manning faces life in military prison under the Espionage Act. Prosecutors for the Obama administration argue that he is guilty of “aiding the enemy” for leaking information that was subsequently made available on the Internet to anyone, including enemies of the United States. If Manning is convicted, the case will set a dangerous precedent for other whistleblowers, as well as media and watchdog organizations, journalists, bloggers, and anyone who accesses information that the government deems sensitive to US interests.

This is precisely the Obama administration’s intent. During arguments January 9, prosecutors explicitly stated that the government saw no difference between WikiLeaks and newspapers such as the *New York Times*. Like the bulk of the Manning hearing to date, this declaration received little media attention.

In her ruling Thursday, Lind said Manning’s motive could not be considered as a factor until the young soldier either entered a plea or was found guilty. At that point, Lind said, Manning’s rationale could become a factor that might influence a reduction in his sentencing. The Justice Department is no doubt eyeing a plea agreement that would require Manning to testify in a future military trial against WikiLeaks founder Julian Assange.

Lind also blocked the defense team, led by civilian lawyer David Coombs, from presenting evidence that the publication of documents that Manning is accused of leaking caused no harm to US security or personnel.

Issues of motive are precluded from arguments on charges that Manning “wrongfully and wantonly cause[d] to be published on the Internet intelligence belonging to the United States government,” Lind ruled, or for charges where the government asserts that Manning had “reason to believe such information could

be used to the injury of the United States or to the advantage of any foreign nation.” The defense could raise issues of motive only when addressing the “aiding the enemy” charge to argue that Manning did not know dealing with WikiLeaks would be tantamount to “dealing with the enemy.”

Prosecutors are seeking to tie Manning and WikiLeaks to Al Qaeda. In order to do this, the government has culled together flimsy evidence, including vague references by alleged Al Qaeda-linked propagandists who have said WikiLeaks might provide insight into US activity in the Middle East. A 2010 issue of *Inspire* magazine, for example, entered as evidence Wednesday, contained a line attributed to an Al Qaeda operative: “[A]nything useful from WikiLeaks can be archived and used to help the mujahideen.” Prosecutors also claim they have evidence collected from the raid of Osama bin Laden’s compound showing that he had reviewed WikiLeaks-published material.

Under Lind’s ruling, the government’s own damage assessments into the impact of the leaks on US interests will not be admitted into evidence until sentencing. Numerous intelligence assessments submitted to the Congressional “WikiLeaks Task Force” found no harm was caused.

Manning has been held for nearly 1,000 days without conviction. From July 2010 to April 2011, he was subjected to mistreatment at Quantico Marine brig in Virginia, including solitary confinement and forced nudity and harassment by guards. Brig officials reported to the Pentagon on Manning’s day-to-day conditions and disregarded recommendations from psychiatric staff that the young soldier be treated less severely.

Coombs argued that Manning’s treatment amounted to “unlawful pretrial punishment,” and called for charges to be dismissed. Instead, Lind granted a reduction of only 112 days—an absurdity in the face of a potential life sentence—and insisted that the harsh treatment was necessary to ensure Manning “did not hurt or kill himself and was present for trial.”

Manning’s court martial has been delayed once again; he is scheduled to face trial June 3. The defense argued that the government has shown “tremendous lack of diligence in the processing of this case,” violating Manning’s right to a speedy trial. On

Wednesday, Coombs argued that the length of time would weaken the ability of witnesses to give reliable testimony. “It is just common sense to say, witnesses will say, ‘It has been several years, I don’t recall,’ ” he said. The government invoked national security to justify the delay.

The lack of transparency is expressed in the court proceedings themselves. More than 30,000 pages of motions, unclassified and classified, have been produced in the case. Twenty-seven witnesses have given more than 80 hours testimony. Prosecutor Ashden Fein commented that 8 terabytes of information have been processed in the case, an amount rivaling that held in the printed volumes of the Library of Congress. None of those records have been released to the public, despite multiple Freedom of Information Act requests to the Obama administration.



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