

Ruling confirms US government withheld evidence to malign J20 defendants

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US judge Judge Robert Morin of the Washington, D.C. Superior Court ruled Wednesday that federal prosecutors withheld crucial evidence that would likely have led to the acquittal of six defendants involved in the Disrupt J20 demonstration against the inauguration of President Donald Trump on January 20, 2017.

The police responded to the J20 demonstration with indiscriminate violence and the “kettling” of protesters, eventually arresting 230 people. They fired on the crowd with chemical agents, pepper spray, rubber bullets and crowd control grenades.

D.C. police have attempted to justify the crackdown by citing several windows that were broken at five different corporate storefronts, a relatively common occurrence during mass demonstrations. Hours after the arrests took place, a limousine was set on fire, an unrelated act which the prosecution has attempted to pin on defendants.

An American Civil Liberties Union lawsuit, currently underway against the D.C. police, alleges that officers knocked a 10-year-old boy to the ground and pepper-sprayed his mother. Overall, police deployed weapons on at least 191 occasions in the course of the day. Police fired 74 sting ball grenades, a type of “non-lethal” explosive that ejects rubber balls in a radius surrounding the point of impact. Protesters also claim police sexually assaulted detainees.

The mainstream media has maintained a virtual news blackout on the mass arrests and ensuing trials, while not a single Democratic Party official has spoken up in support of any of the defendants.

Following the acquittal late last year of all six defendants in the first round of prosecutions, the Trump administration is determined to win at least some convictions in order to set a legal precedent for the criminalization of constitutionally protected political

speech and protest.

The trial for the next slate of J20 defendants—Matthew Hessler, Christopher Litchfield, Daniel Meltzer, Dylan Petrohilos, Clay Retherford, and Caroline Unger—will begin June 4. Petrohilos, a 28-year-old graphic designer, was the victim of a police raid in April of last year, as a result of video footage taken by an undercover police officer who had infiltrated protest planning meetings running up to the demonstration. Police seized his cellphones, computers, and a black “Anti-capitalist, Anti-fascist” flag from his front lawn.

The six defendants are among the 59 individuals still facing felony charges. The notice of intent to proceed with felony charges against the remaining defendants came on the heels of a dismissal of charges for 129 defendants in January of this year. This mass dismissal of charges underscores the lack of evidence and overall weakness of the prosecution’s case.

Judge Morin agreed with the defense that the prosecution’s use of an edited video as evidence constituted a violation of what is known as the Brady rule, a provision which outlines the state’s obligations regarding evidence potentially favorable to the defendant’s exoneration. The defense’s legal team has filed a motion for sanctions on the prosecutor and dismissal of the charges against their clients, who face sentences that could potentially send them to jail for decades. The court has yet to make a decision.

Sanctions have broad ramifications and could range from a simple warning to jurors to view the evidence with caution, to an outright mistrial. If Morin chooses not to dismiss charges against the defendants, the defense team has requested the Project Veritas video footage be suppressed at trial.

The 1963 case *Brady v. Maryland* established the legal precedent that “the suppression by the prosecution

of evidence favorable to an accused ... violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.”

The defense attorneys argued that the withheld evidence in question was from an edited video created by Project Veritas, a far-right political organization that has become known for “sting” operations utilizing selectively edited footage in targeted smear campaigns against its political opponents. The organization gained notoriety in 2009 for producing doctored video evidence that led to the collapse of the Association of Community Organizations for Reform Now (ACORN). In the current case, the prosecution presented a doctored video produced by Project Veritas-linked infiltrators of Disrupt J20 planning sessions to suggest that the group intended to incite violence at the protest.

The defense motion states: “The government has used attendance at this meeting and statements made during the meeting to allege that the defendants conspired to commit acts of violence and destruction on [January 20, 2017] ... [The] defense is now in possession of the full unclipped video that proves the government misrepresented—in open court—the contents of the unclipped portion of the planning meeting.”

In a portion of video footage which was later redacted, the Project Veritas spy can be heard saying, “I was talking with one of the organizers from the IWW [Industrial Workers of the World] and I don’t think they know anything about any of the upper echelon stuff.” This statement alone is a damning indictment of the prosecution’s efforts to present defendants as individuals guilty of pre-meditated acts of violence.

As a result of the doctored video, police seized IWW membership cards, meeting minutes and bylaws as evidence.

The government had uploaded an additional 45 minutes of video material that had been taken ostensibly at the same planning meeting, but from a different angle. None of the defense attorneys had been given prior knowledge of or access to this video footage to give them the proper amount of time to sift through the material and prepare a response.

“Although defense is now in possession of this information, this blatant hiding of evidence leads counsel to have to go through hours of video evidence

in this matter again to make sure there aren’t any other instances when the government has clipped or misrepresented evidence,” the defense lawyers state in their motion. “That is an impossible task and should not be the burden of the defendants.”

Sam Menefee-Libey, a legal activist and member of the Dead City Legal Posse, spoke with the *World Socialist Web Site* about the significance of Morin’s ruling.

“I’m glad the D.C. Superior Court is starting to recognize some of the US attorney’s shady tactics in the case. This has been pretty typical of the prosecution’s actions since the beginning,” Menefee-Libey noted. “They have used questionable information from known ultra-nationalist groups such as the Oathkeepers, Project Veritas, and others. We hope that there will be further sanctions against the US Attorney’s office as more comes to light. They’ve been playing fast and loose with the rules that they’re supposedly bound by.”



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