

Prosecution Case vs. Bradley Manning Threatens First Amendment Rights to Free Speech and Press

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The prosecution rested its case Tuesday in the court martial of Bradley Manning, the Army private who has admitted to leaking 700,000 documents exposing US military atrocities and other crimes to the WikiLeaks web site in April of 2010.

The prosecutor, Major Ashden Fein, dropped one of the 22 charges against Manning. That charge alleged Manning had leaked intelligence to an “enemy” whose name is classified.

Over the course of five weeks, the prosecution has sought to establish by means of circumstantial evidence that Manning intended to send classified information to Al Qaeda and other terrorist organizations and conspired with WikiLeaks journalists to do so.

In charging Manning with “aiding the enemy” under Article 104 of the Uniform Code of Military Justice, the US government is equating the publication of classified information about its secret and illegal activities with espionage, treason and aiding terrorists. It is doing so on the spurious grounds that such information can end up in the hands of forces considered by the government to be hostile.

In fact, as the Obama administration and the military well know, Manning released the information to inform the American people of war crimes being carried out by the US government in Iraq and Afghanistan and diplomatic intrigues targeting many other countries.

The clear implication of the government’s case is the position that any publication or organization that publishes leaked classified information or defends whistleblowers such as Manning is itself engaging in criminal and treasonous acts. The prosecution acknowledged as much in January when it argued that its case against Manning, which implicates WikiLeaks in treasonous and pro-terrorist activities, would apply equally if the Army private had passed his information to the *New York Times* .

This sweeping attack on First Amendment guarantees of freedom of speech and the press occurs in the context of threats to prosecute journalists such as the *Guardian* ’s Glenn Greenwald for publishing former National Security Agency contractor Edward Snowden’s exposures of US government spying, and revelations that the government seized the phone records of Associated Press reporters and tapped into the email of Fox News’ James Rosen, who was named a co-conspirator by the Justice Department in relation to State Department leaks.

Proceedings in the court martial will resume next Monday with defense motions to dismiss many of the remaining charges for lack of evidence.

Prosecutors claimed that Manning was in direct contact with WikiLeaks founder Julian Assange and that the latter directed Manning in the selection, downloading and transmission of classified documents. As evidence of this supposed coordination, the government showed the court a WikiLeaks web posting of a “most wanted list” of government secrets, though there was no evidence that Manning took a cue from this list, or ever saw it. The same was true with a tweet encouraging the collection of military emails by WikiLeaks.

Prosecutors also allege that Manning knowingly violated protocol for handling classified information, but cross-examination of a prosecution witness revealed that the Army had lost the document Manning signed acknowledging that he understood the terms in question. The Army’s failure to produce this document may result in dismissal of some of the charges.

In its effort to establish that Manning leaked information out of “evil intent” to “aid the enemy,” the prosecution alleged that he first leaked a classified video of a US air strike in November of 2009, within days of his arrival in Iraq, and not, as Manning states, in April 2010. Manning admits that he leaked the video, but says he did so following a change of conscience in late December of 2009, when he saw a video of a roadside bomb killing civilians whose vehicles were forced off the road by a US military convoy.

A prosecution witness had to admit that the copy of the video allegedly transmitted by Manning in 2009 did not match the version found on Manning’s computer.

Even if Manning did not intend for Al Qaeda to have access to the leaked information, prosecutors contend, he still should have known that WikiLeaks was a threat to the US Army. The evidence offered to show this was a 32-page intelligence report by military counterintelligence on WikiLeaks, which concluded that sensitive or classified information WikiLeaks received “could be of value to foreign intelligence and security services (FISS), foreign military forces, foreign insurgents, and foreign terrorist groups for collecting information or for planning attacks against US forces, both within the United States and abroad.”

Manning allegedly leaked this very report, which WikiLeaks made public in March 2010. Since Manning leaked the document, prosecutors allege, he must have read it.

Manning has not denied his leaking of documents to WikiLeaks and has offered a guilty plea to charges relating to this. Prosecutors have rejected the plea offer.

Manning strictly denies the charge of “aiding the enemy,” which carries a possible death sentence.

The entire trial is a travesty of justice aimed at silencing and punishing those who expose criminality by the US government rather than those who are responsible for war crimes and crimes against the democratic rights of the American people.

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