

US judge orders release of two anarchists held for five months without charges

By David Brown
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After five months in prison for refusing to testify before a grand jury about the political opinions of their acquaintances, Katherine Olejnik and Matthew Duran are to be released from a federal prison in the US state of Washington today. A third man, Matthew Pfeiffer, remains incarcerated in order to “coerce” testimony from him.

Olejnik and Duran have been imprisoned since last September, while Pfeiffer was incarcerated last December. None of the three were accused of any criminal conduct. Instead they have been held on grounds of civil contempt of court for refusing to testify before a federal grand jury. Much of their time in prison was spent under solitary confinement.

Their imprisonment has been at the instigation of federal prosecutors in the Obama administration’s Justice Department.

The grand jury was convened to investigate “ongoing violent crime” relating to May Day protests last year in Seattle, during which minor acts of vandalism were committed.

In the case of Olejnik, the grand jury only kept up the pretense of investigating vandalism for four questions before turning the interrogation to the social contacts and political beliefs of people she was suspected of knowing. When she refused to answer questions regarding others’ political beliefs she was thrown in jail.

Grand juries are allowed under law to confine witnesses in order to compel them to testify, but to satisfy the constitutional right to due process, their confinement must be to coerce testimony and not be punitive.

During their incarceration both Duran and Olejnik spent at least 6 weeks in the Special Housing Unit, where they were kept in solitary confinement. The

physical and mental strain of extended solitary confinement amounts to torture, and the government never gave any reason for this additional punishment.

According to the ruling by US District Court Judge Richard Jones, “The Government does not dispute the witnesses’ assertions that confinement in the special housing unit entails 23 hours of solitary confinement in their cells and an hour of solitary time alone in a larger room each day, a single fifteen-minute phone call each month (as opposed to five hours of monthly phone time for detainees outside the special housing unit), and exceedingly limited access to reading and writing material. Their physical health has deteriorated sharply and their mental health has also suffered from the effects of solitary confinement.”

The judges’ ruling was based on the decision that the two captives would not testify even if they were held for a longer period of time. The implication is that solitary confinement is a legitimate means of coercion, but that in this case it was not succeeding in compelling the prisoners to speak.

Jones rejects as secondary, and “a much shakier foundation” for their release, the witnesses’ claims that the testimony demanded is “at best, tangential” and that “the duration of their confinement already exceeds the likely imprisonment of anyone who might be convicted” as a result of the investigation.

The federal prosecutors of the Obama administration are testing out the legal machinery for using grand jury investigations as a tool for circumventing constitutional protections.

The proceedings of grand jury investigations are kept secret, and under current law they can detain witnesses to compel testimony for up to 18 months. The only basis for detention and questioning is if a prosecutor can convince the grand jury to request them.

Far from being an independent body of citizens, grand juries play a supplementary role to the federal prosecutors. They are guided in their deliberations by the prosecutor, who also presents all the evidence without the presence of a judge or any opposition. In short, the grand jury only hears what the prosecutor wants them to.

Grand juries don't have the same protections as witnesses have in a courtroom. Although testimony before them is admissible in court, those called before a grand jury do not have the right of legal representation while answering questions.

The jailing of the activists in Seattle is part of a wholesale attack on democratic rights, carried out under the pretext of the "war on terrorism." Increasingly, these methods are being employed specifically to attack domestic political opposition.

Last July, as part of this grand jury investigation, several "domestic terrorism" units of the FBI raided the homes of political protesters in Portland and Olympia, searching for "anti-government or anarchist literature or material," among other things.

In September 2010, the administration ordered raids on members of the Freedom Road Socialist Organization and subpoenaed 23 people to appear before grand juries. They justified the raids under the "material support for terrorism" provisions of the PATRIOT Act.

All of these are part of a broader deployment of the US government's "anti-terrorist" tools domestically. Whether it is the use of drones or unwarranted wire-tapping, the real target of this repressive apparatus is any opposition to the demands of the ruling class.

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