

Judge in Stanford sexual assault case recalled from office following law-and-order campaign

By Patrick Martin
7 June 2018

Superior Court Judge Aaron Persky was removed from office by means of a voter recall Tuesday, the culmination of a two-year-long right wing, law-and-order campaign in favor of harsher sentencing for those found guilty of sexual assault. Voters in Santa Clara County, California, which includes the city of San Jose, approved the recall by a 60–40 margin.

Assistant District Attorney Cindy Hendrickson won a separate ballot to replace Persky for the remainder of his term, until 2022, defeating local attorney Angela Storey by a margin of two to one. Storey opposed the recall.

Persky was targeted by Democratic Party politicians in 2016 when he sentenced Stanford University student Brock Turner, then 20, to six months in prison for sexually assaulting an unconscious fellow student after a drunken fraternity party near the campus. The sentencing conformed to the recommendations of the probation department which carried out a background check on Turner. The judge said he considered as a mitigating factor that both students had been drinking heavily.

While a group of feminist professors at Stanford denounced the sentence as unduly lenient, Turner was convicted a felon, served jail time, was placed on probation for three years and had to register as a sex offender. He was expelled from college, and the criminal record ended his athletic career as a swimmer and severely limits where he can live or work for the rest of his life.

The recall campaign was led by Stanford University professor Michele Dauber, a prominent supporter of the Hillary Clinton presidential campaign. She became the public spokeswoman for claims that the judge was sanctioning “rape culture” and had given Turner a lenient sentence because he was a “high-status

perpetrator of sexual assault.” This is an apparent reference to Turner being white and male, since his family background is lower middle class.

In the statement he submitted for placement on the ballot, next to the question of his recall, Persky wrote, “As a prosecutor, I fought vigorously for victims. As a judge, my role is to consider both sides. California law requires every judge to consider rehabilitation and probation for first-time offenders. It’s not always popular, but it’s the law, and I took an oath to follow it without regard to public opinion or my opinions as a former prosecutor.”

In the summer of 2016, top leaders of the Democratic Party seized on the Brock Turner case as a means of manufacturing a law-and-order frenzy around the issue of sexual assault that could assist the Hillary Clinton presidential campaign, then challenged by Vermont Senator Bernie Sanders. It was aimed at diverting attention from issues of social inequality and boosting Clinton, the favored candidate of the military and Wall Street.

Clinton declared herself in favor of eliminating the presumption of innocence for those accused of sexual assault, in the name of “believing the victims.” Vice President Joe Biden, in an extraordinary intervention from Washington into a local case on the other side of the country, sent a letter solidarizing the Obama administration with the campaign against the sentencing.

The Democratic-controlled state legislature subsequently passed a law requiring judges to sentence those guilty of sexual assault to prison time rather than the county jail, as in Turner’s case, and to prescribe longer terms of incarceration, this under conditions where, in 2011, the United States Supreme Court wrote that California’s state prisons were so dangerously

overcrowded that it violated the Eighth Amendment right of prisoners to be free from “cruel and unusual punishment.”

The removal of Persky is the first recall of a judge in California in more than 80 years. He initially faced charges of judicial misconduct instigated by his enemies in the Stanford faculty, but a judicial panel cleared him in December, 2016. This was followed by a petition drive that collected the signatures necessary to force the recall vote that was held Tuesday, as part of the statewide primary election.

While the recall campaign began a year ago, it gained reinforcement from the #metoo witchhunt launched last fall by the *New York Times* and the *New Yorker*, which quickly spread throughout the corporate-controlled media and Hollywood.

The recall campaign was backed by the Democratic Party establishment, particularly Senator Kirsten Gillibrand of New York. It attracted a series of high-profile supporters, including the South Bay AFL-CIO and the California Nurses Association, an editorial endorsement from the local daily newspaper, the San Jose *Mercury-News*, and an admiring 20-page spread in *Vogue* magazine.

As one letter to the *Mercury-News*, signed by two local officials who opposed the recall, warned, the purpose of the recall campaign was to pressure judges to hand down lengthy jail terms. “The campaign has clearly stated that its message is ‘Judges watch out’ and has spent more than \$1 million to remove one judge who followed the law,” they noted.

The demand for harsher sentencing has long been a hallmark of right-wing legal campaigns. The impact of the campaign will be to intimidate other judges into giving the harshest sentences possible for fear of losing their jobs. It will also increase the power of prosecutors to pressure defendants, particularly those who are poor and working-class, to plead guilty out of fear of the consequences of a trial, even if they are innocent.

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