Attorney-client privilege attacked

Antiterrorism and Effective Death Penalty Act is unconstitutionally vague

JENELLE WILSON

Last Tuesday, U.S. District Judge John Koeltl rightly dismissed two of the four counts of indictment against attorney Lynne F. Stewart for being unconstitutionally vague. Stewart, along with three others, had been charged in April 2002 with providing material support to her client Sheik Omar Abdel Rahman, a leader of the Islamic Group, a fundamentalist Islamic organization that has been labeled a foreign terrorist organization by the federal government.

Stewart has represented Rahman since being appointed to defend him in 1995 against charges of conspiring to blow up New York City landmarks, such as the George Washington Bridge and the U.N. General Assembly building. Rahman was convicted and is now serving a life sentence at the Federal Medical Center in Rochester, Minn., according to CNN.

The charges against Stewart were highly troubling because they resulted from normal activities in the course of zealously defending a client. A lawyer is required by legal ethics, such as those laid out in the American Bar Association's Model Rules, to defend any client – even unpopular ones – to the best of his ability, something the government is severely impairing with the laws under which Stewart was charged.

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Stewart was charged under the Antiterrorism and Effective Death Penalty Act of 1996, which prohibits "material support" from being given to terrorist organizations. The "material support" in the law is defined as tangible objects such as money, communications equipment, weapons, explosives and personnel. The Department of Justice used the communications equipment and personnel aspects to indict Stewart with two counts of criminal activity.

These are the same two counts Koeltl threw out last week for being unconstitutionally applied in this particular case.

In May 2000, Stewart allegedly distracted prison guards to allow Rahman and his Arabic interpreter to discuss IG activities, particularly a cease-fire with the Egyptian government. Later, in answering a question from the media, she announced the sheik's withdrawal of support for the cease-fire. The government contends that in talking to the media, which the sheik was prohibited from doing under the Bureau of Prisons special administrative measures, Stewart provided "communications equipment."

Thankfully, Koeltl disagreed.

The legislative history of the law shows that Congress meant to ban giving telephones, faxes and computers to terrorist organizations. They did not ban talking, which is what Stewart was charged with. They did not ban one from advocating, thinking or professing a foreign organization's philosophy, which is what Stewart was doing for her client.

The personnel charge is related to the communications one. In talking to the press, which is a highly normal practice with controversial cases and clients and, the government argues that Stewart essentially became a quasi-employee of a terrorist organization.

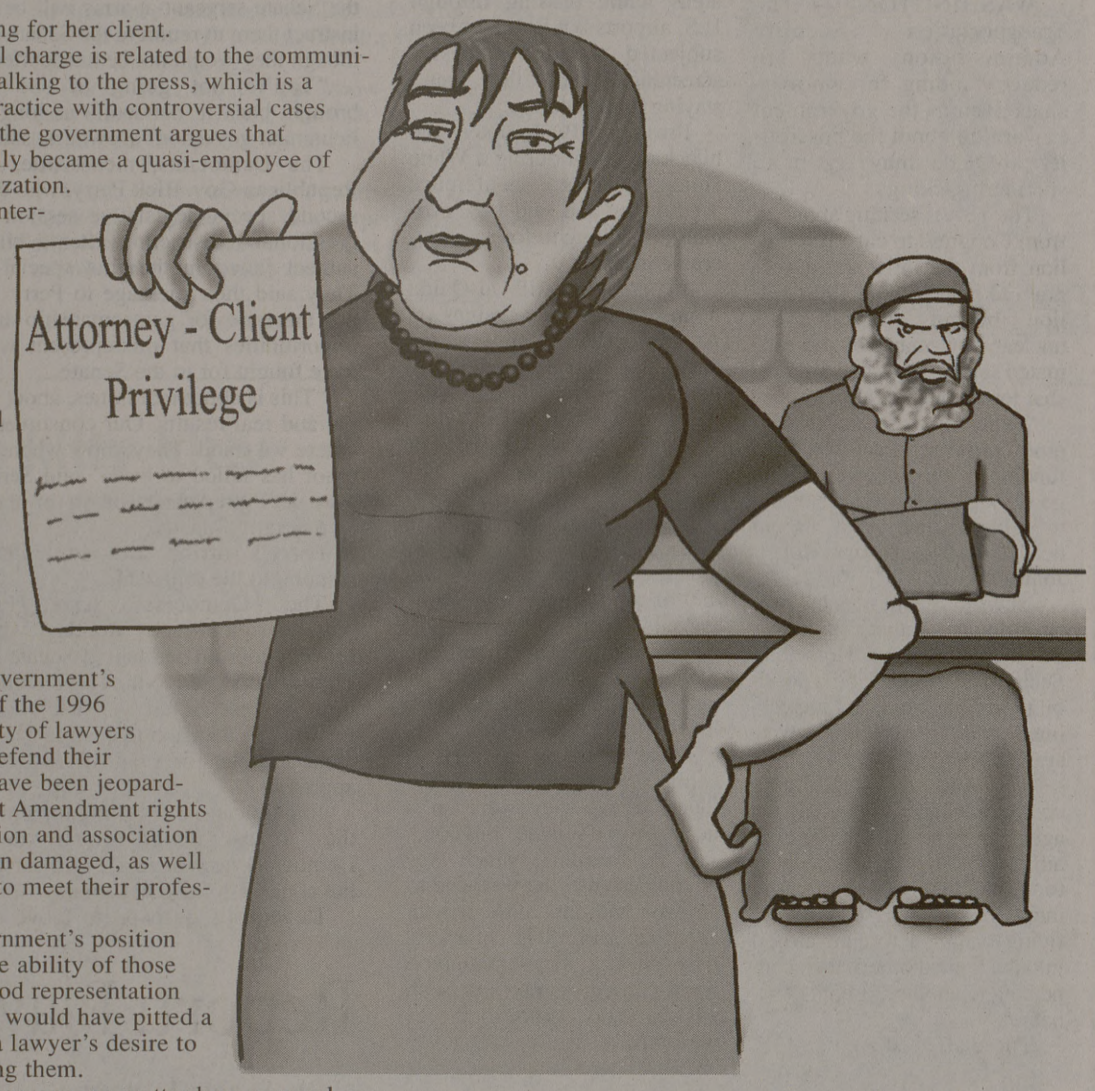
The problem is, with this interpretation of the law, any lawyer representing someone labeled a terrorist becomes a terrorist by association. As Koeltl wrote in his opinion, "the government fails to explain how a lawyer, acting as an agent of her client could avoid being subject to the criminal prosecution as a 'quasi-employee' allegedly covered by the statute."

Had Koeltl accepted the government's interpretation of the 1996 statue, the ability of lawyers to adequately defend their clients would have been jeopardized. Their First Amendment rights to speech, petition and association would have been damaged, as well as their ability to meet their professional duties.

An acceptance of the government's position also would have meant that the ability of those labeled as terrorists to find good representation would have been destroyed; it would have pitted a client's best interests against a lawyer's desire to not be prosecuted for defending them.

In the U.S. legal system, everyone, no matter how unpopular his ideology may be, deserves quality representation. Fair treatment in the legal system is guaranteed by the Constitution and must be respected.

Rahman is not a popular guy; he's been involved in terrible things, but that does not mean that he does not deserve to be treated fairly in the American justice system. It does not mean that he does not deserve a lawyer who zealously represents him, which is another requirement in the ABA Model Rules. The lawyers who accept cases such as these should not live in fear that they will be prosecuted for doing their jobs by defending their clients to the fullest of their abilities.



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Discriminatory alcohol-selling practices

Out-of-state driver's licenses and large parties turned away by supermarkets

MIKE WALTERS

The war over the American citizen's right to purchase alcohol has been fought in this country for the past 100 years and still continues. The Constitution bears two scars from the battle, though, after successfully upholding the right to have alcohol, each state still must regulate its laws and guidelines. Below that, each establishment that sells alcohol has its own set of policies that are set up to prevent their employees from violating state laws. However, several College Station grocery stores follow policies that go beyond taking necessary precautions. They harass the customer and by doing so suggest that anybody legally buying alcohol is a potential criminal.

College Station is home to some nationally famous bars, one of which, The Dixie Chicken, boasts that it sells "more alcohol per square foot than anywhere in the world," according to its Web site. Despite the hectic setting, bartenders and staff members must still check the ID of every person buying a drink.

Grocery store clerks also share this responsibility, albeit in a more relaxed setting. Obviously, their risk is minimal compared to establishments that sell higher volumes of alcohol to more customers. A cashier on a slow Monday night at Kroger likely isn't distributing alcohol at such a fast pace that he might accidentally sell to a minor. So one would think the addition of extra store policies in regards to alcohol sale is unnecessary.

Sadly, common sense does not hold true in this situation.

The first of the ridiculous grocery stores' policies involves out-of-state licenses. While Texas has created a driver license that makes it clear if the holder is underage or not, not everyone in town has one. Students move to College Station to attend school from across the country, and many hold identification from their native state. A seller must take special care to correctly identify another state's license, as a forgery of one may be easier to get away with because the other state's design is not easily recognizable.

Albertson's and HEB keep a book in the store that holds pictures of state IDs and driver's licenses from across the country so that if the cashier is unsure of what another state's ID looks like, he can simply check the book. Kroger, however, refuses to supply this book and makes no such demands of their cashiers' personal knowledge. If you attempt to purchase a bottle of wine from Kroger and do not have a Texas ID, its policy denies you a perfectly legal exchange of your money for an alcoholic beverage. This costs someone not only the hassle of having to go elsewhere for the purchase, but the embarrassment of having to put the item back.

The second and more insulting policy deals with large parties of customers. If a group of people comes into a bar, not everyone has to have his ID verified by the bartender. When the proud new owner of an Aggie ring wants to buy a pitcher of beer, he is not turned away because an excited, underage friend has come along to celebrate. If you were to make the same purchase at Kroger, HEB or Albertson's, however, this would not be the case.

Refusing to sell a legal buyer an alcoholic drink on the grounds that the people around him are not old enough to responsibly swallow the same substance punishes the customer by assuming that he might provide the beverage to his underage friends. This policy amounts to a de facto accusation of criminal activity: the store does not trust you not to break the law.

Why would any company's customer service include insulting and refusing to sell a product to a legal purchaser? The last time such action was legal in this country, they called it segregation. While the reasoning for a business to refuse a legal transaction is not so heinous as to be based on the color of the customer's skin, the same application of baseless discrimination should be equally repulsive to members of the Bryan-College Station community.

The corporations behind Kroger, HEB and Albertson's can financially afford to engage in practices that harass and offend customers whose alcoholic purchases make up only a minority of the stores' sales. Should they choose to continue engaging in actions that annoy and turn away customers, however, one would hope they have the good sense not to wonder why their profits decline while local liquor stores and bars prosper by the same amount.

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Public school's testing was an assault on privacy

SARA FOLEY

When a handful of middle-school students skipped class last April to go to a party near their Manhattan school, they probably didn't think their punishment would involve anything more than an unexcused absence or a detention. Upon returning to Intermediate School 164, they learned that news of the party had made it back to administrators' ears. To return to class, the girls who attended the party were required to be tested for pregnancy and sexually transmitted infections. They were also required to provide administrators with the results of those tests before admission back into the classroom was granted, according to The New York Times.

Although the girls cooperated with the school's requests, two of them now have lawsuits pending against the school. For once, in an age of legal triviality, it is a well-deserved lawsuit.

Among many problems with the situation is that all students were not treated with the same scale of punishment. A male student who attended the party received no penalty at all, whereas some girls were suspended from school until doctors' notes were presented, and other girls had to go beyond a doctor's note and provide test results, according to The New York Times.

Despite the differences in punishment, the bottom line is that the actions taken by IS 164 were inappropriate. The only possible acceptable response from the school and the principals would be a standard punishment for any student who skipped school. The actions that the girls may have participated in while they were skipping have no consequence whatsoever as far as administrator intervention is concerned. While the suspicion of such actions might merit a lecture from a counselor or parent, it should in no way be punishable by the school.

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Not only was the suspension of these girls inappropriate, the requirement of their test results is a clear violation of privacy. When the girls first went to the clinics to be tested and returned with receipts showing that the tests had been done, administrators were not satisfied and demanded the girls to produce written results of the test. Although it was not said outright, the girls' temporary suspension threatened to be permanent if the test results were "bad," according to cnn.com.

The school already denied these students a few days of instruction while they were trying to get appointments and test results back. Denying them education, especially in the hypothetical circumstance that the test results came back differently, is a clear and horrifying instance of the school's lack of educational integrity. Even if the girls had shown up pregnant and carrying every STI imaginable, they still have the right to an education.

The doctor who administered many of the tests on these girls had deeper concerns as well. By forcing the girls to undergo tests they described as "embarrassing" to The New York Times, their image of proper sexual healthcare could be damaged due to the unpleasant first experience.

Public schools have every right to educate adolescents on safe sex and the dangers of sexually transmitted infections. They have every right to discourage illicit behavior and discourage missing class. However, the decisions are ultimately left up to the students, and forcing the girls to uphold the same values as the personal ones of the administrators is not only ridiculous, it is inappropriate.

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