

Partner of deceased Internet activist Aaron Swartz denounces US attorney general

By Kevin Reed
15 March 2013

Taren Stinebrickner-Kauffman, the partner of deceased Internet activist Aaron Swartz, issued a statement on March 10 denouncing the Senate testimony of US Attorney General Eric Holder regarding the Justice Department's prosecution of Swartz. She also accused the US attorney's office in Massachusetts of multiple acts of prosecutorial misconduct in its handling of the case.

Swartz, an internationally known activist in behalf of free distribution of information to the public via the Internet, took his own life on January 11 while he was awaiting trial for allegedly downloading over 4 million academic articles from the proprietary JSTOR database at the Massachusetts Institute of Technology (MIT). Facing up to 35 years in prison on wire and computer fraud charges, he was the victim of a politically motivated legal vendetta carried out by the Obama administration and federal authorities.

Following Swartz's death, his family issued a statement declaring: "Aaron's death is not simply a personal tragedy. It is the product of a criminal justice system rife with intimidation and prosecutorial overreach."

In issuing her statement last Sunday, Stinebrickner-Kauffman was responding to testimony by Holder before the Senate Judiciary Committee on March 6. In an exchange with Republican Senator John Cornyn about Swartz's prosecution, Holder defended the conduct of the Massachusetts US attorney's office. He claimed US Attorney Carmen Ortiz and Deputy US Attorney Stephen Heymann had exercised "good use of prosecutorial discretion" during the year-and-a-half-long pursuit of Swartz.

In her statement, published online by *TechDirt*, Stinebrickner-Kauffman said, "Eric Holder and the Department of Justice are clearly trying to mislead the

Senate and the public." She charged Holder with lying when he told the Senate committee that Swartz was facing only months in prison, declaring, "Heymann and Ortiz were actively pursuing a penalty of 7 years if the case went to trial."

She continued, "If you believe you're innocent, you should not be coerced into accepting a plea bargain that marks you as a felon for life just because prosecutors want to boast about taking a scalp. The discrepancy between the plea deal and the amount of prison time prosecutors said they would pursue at trial violates the [Department of Justice's] own guidelines in this regard. Holder is trying to engage in revisionist history at the same time he claims that the strict sentences pursued by prosecutors were a 'good use of prosecutorial discretion.'"

Holder's "prosecutorial discretion" claim was exposed by recent reports that Justice Department officials were motivated by political considerations in their case against Swartz. According to a February 22 report in the *Huffington Post*, congressional staffers confirmed that the Department of Justice used the views in Swartz's "Guerilla Open Access Manifesto" to develop the charges in its 2011 indictment.

Stinebrickner-Kauffman's March 10 statement specifically attacked the practices of the Massachusetts US attorney's office in connection with their arrest and indictment of Swartz.

She wrote: "What's worse, this isn't just about sentencing. Steve Heymann engaged in serious prosecutorial misconduct on multiple occasions. Public documents show that he instructed the Secret Service to seize and hold evidence without a warrant, violating the Fourth Amendment. He then lied to the judge about that fact in written briefs. And he withheld exculpatory evidence from Aaron's lawyers for over a year, despite

both a legal and ethical obligation to turn it over. If this constitutes appropriate behavior from the perspective of the Department of Justice, then we live in a police state.”

Stinebrickner-Kauffman’s assertions were supported by a March 12 letter from Swartz’s attorney, Elliot Peters, to an internal Justice Department ethics unit. In the letter, Peters claims, among other things, that prosecutor Heymann “appears to have abused his discretion when he attempted to coerce Mr. Swartz into foregoing his right to a trial by pleading guilty.”

Swartz was targeted by the Obama administration because of his opposition to private control and exploitation for profit of information that should be distributed freely and available to all members of society. In 2008, Swartz wrote his manifesto, which called for open access to information and charged that the political system had been “bought off” to protect those who controlled the resources of society for their own personal benefit.

At the March 6 Senate Judiciary Committee hearing, Holder defended the supposed right of the president to assassinate American citizens, including on US soil. The hearing became a platform for the elaboration and defense of police state measures by the US government. The tragic death of Aaron Swartz, a gifted and courageous technology pioneer and critic of the profit system, was one product of this assault on democratic rights.

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