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## **COURT URGED TO UPHOLD CONVICTION OF RADICAL ATTORNEY LYNNE STEWART FOR SUPPORTING TERRORIST ORGANIZATIONS**

*(United States v. Lynne Stewart)*

The Washington Legal Foundation (WLF) this week urged the U.S. Court of Appeals for the Second Circuit in New York to uphold the criminal conviction of Lynne Stewart, a well-known radical New York attorney found guilty of providing support to an Egypt-based terrorist organization.

In a brief filed in *United States v. Lynne Stewart*, WLF argued that the statute under which Stewart was convicted is not impermissibly vague and does not violate the First Amendment rights of individuals who wish to advocate in support of terrorist groups. WLF argued that the First Amendment does not prevent Congress from barring actions taken to aid terrorist groups simply because the actions may have an expressive component.

"Congress has determined that international terrorism 'threatens the vital interests of the United States' and that direct material support to international terrorist groups facilitates their terrorism," said WLF Chief Counsel Richard Samp after filing WLF's brief. "Stewart clearly violated that law. Courts have no business second-guessing determinations of the elected branches of government on such vital national security issues," Samp said.

The law in question, 18 U.S.C. § 2339A, makes it a felony knowingly to provide "material support or resources" to others, knowing that the others intend to use the material support to further their international terrorism objectives. Stewart was found to have provided material support to the Islamic Group (IG), an Egypt-based group that was designated by the U.S. government in 1997 as a "foreign terrorist organization."

One of the leaders of the IG is Sheikh Omar Abdel Rahman, the "blind Sheikh" who is serving a life sentence for his role in the 1993 World Trade Center bombing. Because of Abdel Rahman's continuing leadership role in the IG, federal authorities have prohibited him from communicating with those outside the prison system. An exception to that prohibition are his lawyers; he is permitted to communicate with them on legal issues relating to his efforts to win release from prison. Stewart served as one of his lawyers. In violation of the limitations on outside communications (and contrary to a contract she signed agreeing that she would not pass messages to and from Abdel

Rahman and his followers), Stewart routinely served as a vital communication link between Abdel Rahman and his followers. She smuggled letters into prison to be read to Abdel Rahman, and communicated Rahman's responses to the outside world. She also took elaborate steps to hide what she was doing.

After being convicted by a jury of violating § 2339A and other federal laws, Stewart has appealed her conviction to the Second Circuit. In its brief arguing that the § 2339A conviction ought to be upheld, WLF argued that a statute is impermissibly vague only if it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits. WLF argued that the words adopted by Congress in § 2339A easily meet that standard. It argued that Congress quite clearly has prohibited the provision of significant direct assistance to others, where one knows or intends that one's assistance is to be used in preparation for, or in carrying out terrorism or other enumerated crimes. If she had bothered to read the statute, Stewart would have understood that there are few, if any, forms of significant direct assistance that, when provided with the requisite knowledge or intent, are not prohibited, WLF argued.

WLF also argued that § 2339A does not violate Stewart's First Amendment rights. Stewart asserted that the First Amendment immunizes her efforts to provide assistance to a criminal conspiracy so long as her activity is limited to assisting in the dissemination of written or spoken words. WLF responded that that assertion has never been accepted by courts in this country. It has never been deemed an abridgement of freedom of speech to make a course of conduct illegal merely because the conduct was initiated, evidenced, or carried out by means of language, either spoken or written, WLF argued.

The Washington Legal Foundation is a public interest law and policy center with supporters in all 50 states. It devotes a considerable portion of its resources to promoting America's national security. WLF filed its brief on behalf of itself and the Allied Educational Foundation.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302. A copy of WLF's brief is posted on its web site.