

# Penalties Meted Out to Political Activists

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The Stanford Judicial Council, charged with hearing student disciplinary cases at Stanford, has made its recommendations in the cases that resulted from this spring's political activities. Its highest penalty recommendation was for a convicted rock-thrower: one year suspension, a three-hundred dollar fine, a letter of censure from the president, and a hold on his graduation. A second student accused of rock-throwing did not appear for his hearing, and a hold was placed on his graduation at least until his hearing can be held.

Partly because of the over-crowded SJC docket, the hearing on the ROTC mutiny was postponed until the fall; no graduations were held up in connection with that case.

The ROTC Furry-Four, a group which blocked access to the ROTC building for over three weeks, confronted the SJC in two hearings. The two cases were nearly identical except that the prosecution had pictures of the first group of defendants and had only eyewitnesses to identify members of the second group. Both groups were charged with blocking "legitimate movement in and around University buildings." All those who actually stood trial were convicted and fined seventy-five dollars, but twenty-six of the defendants went unrecognized by the eyewitnesses or were only recognized along with incorrect identifications, and their cases were

dropped. One of the convicted defendants appealed his fine, and his penalty was changed to a suspended sentence of suspension.

During the first trial of the ROTC sit-ins, defendants caucused at least twice to decide whether or not to leave the courtroom. They claimed to have prepared a lengthy defense with the help of their lawyer, Anthony Trepel, and a law student familiar with the workings of the SJC. They became quite angry when the SJC ruled that many of their prepared defenses were not permissible. As long as the defendants did not contest prosecution evidence that they had willfully sat in front of the ROTC building doorway, the SJC ruled that the only relevant defense was on the question of motivation, which is considered in levying the penalty. The SJC further maintained that "objective reality is irrelevant to motivation." This meant that the defendants would only be allowed to present their impressions in personal statements of motivation. The court would not allow witnesses or evidence on issues pertaining solely to motivation.

The defendants in the second ROTC case did leave the courtroom after appointing Denton Hand, a volunteer lawyer provided by the SJC, as their counsel and after castigating the SJC for its conduct in the first ROTC trial. When the first case opened, lawyer Anthony Trepel moved for dismissal on the grounds that the defendants had

been unable to learn the specific charges against them, to see the evidence against them, and to

obtain a list of the witnesses against them until 9 a.m., four hours before the trial as compared with the usual SJC minimum of 24 hours.

The Council ruled that the Disruption Policy had few enough provisions in it that more specific charges were not required, and they denied the motion.

Soon after, motion was made that since the group had been cited under emergency regulations, the burden of proof must be on the prosecution to show that an emergency existed. The SJC denied the motion and further ruled that no evidence or testimony was permissible, even in defense, along that line of argument; many felt that the President's actions were unreviewable by the SJC.

As the defendants were charged with blocking "legitimate movement," lawyer Trepel asked the court if they would hear an argument

questioning ROTC's legitimacy. He maintained that if ROTC could be proven illegitimate or illegal, movement into the ROTC building would also be illegitimate. His clients could not then be charged with violating the campus Disruption Policy. The point was clarified by a previous injunction which allowed only those people with ROTC business to enter the building. The SJC

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recessed and returned with a decision that "this question is not in the case and thus evidence on it could not go to guilt or innocence."

Its final decision, sent out by mail to the defendants after the hearing, was that since the university has no process for restraining or incarcerating people who have violated campus rules, it must be allowed to require such people to identify themselves in order to assure their appearance at a hearing. However, that identification "may not forge a vital link" in the case against the defendants. Once in court, the prosecution must prove its case independent of previous identifications by the defendants themselves. In the case of the ROTC sitters-in, the SJC ruled that the pictures alone, unlabelled, were sufficient to convict the defendants. As the first day drew to a close, Mr. Trepel asked if the SJC were willing to hear any kind of defense, specifically legal arguments regarding entrapment and selective prosecution. The council agreed to hear both arguments although it warned that it was skeptical of the selective prosecution argument since it had heard many weak arguments on this point before. During that first day, a defense motion was lost that asked permission to argue that since ROTC is not "conducive to scholarly pursuits" it cannot be protected by legislation designed to ensure "an atmosphere conducive to..." such pursuits, which is the stated goal of the campus Disruption Policy. When attempting to cross-examine on this point later, the defendants were told that their questioning was irrelevant and not permissible, since again the nature of ROTC does not determine the legitimacy of movement into its building.

On the second day of the trial, Colonel Stanley Ramey, head of Army ROTC at Stanford, testified that he had tried to enter the ROTC building on May 12 in order to hold a class there and to gain access to his office. Although he admitted that his attempt to enter followed a request and instructions on how to do so from the President's office, his testimony that he wanted to enter the building effectively countered the entrapment argument that the defense had hoped to make. Their argument would have been that Major Barberry had visited the ROTC building early in the morning on May 12, had asked the defendants whether or not they had the moral fortitude to remain seated if the police or other authorities came, and then returned with Col. Ramey and others whose sole intent was to make citations. They would maintain that this course of continued entrapment.

For their selective prosecution argument, the defendants handed in as evidence a complicity statement with several hundred signatures and called as a witness a student who had informed Col. Ramey's delegation that he had mistakenly left the ROTC doorway, and that he intended to return to it to block entrance. He testified that he was not prosecuted by the university despite his request that they do so and despite his presence in the prosecution's pictures of the sitters-in. The SJC ultimately decided that selective prosecution was permissible unless it was based on politics or race, and was not therefore a defense in the ROTC case.

The Council's decision on guilt was unanimous, but the vote was split 3-2 on penalty. Those dissenting felt that a 25 dollar fine would have been more fair especially since the defendants had clearly felt "the individual obligation to bear moral witness to their cause..."

The rest of the defense consisted of a lengthy history of decisions about ROTC at Stanford followed by a number of motivational statements. One defendant briefly took the stand. The defendants generally expressed hostility toward or disappointment in the SJC, most of them saying they were shocked by its claim to fairness. All were confident of a minimal fine of twenty-five dollars, since the prosecuting attorney, Paul Valentine, had said that if requested to make a penalty recommendation he would ask for the minimum.

The second trial, since it involved picking defendants out of the audience by the eye-witnesses who had cited them, saw a packed courtroom audience. Witnesses were brought in one at a time and asked to identify as many people as they could. Some witnesses were unable to identify anyone. Two non defendants were "identified" which diminished the credibility of two of the eye-witnesses. Three defendants were identified, but since one of these had been picked out only by a witness who had made an incorrect identification as well, she was later acquitted.

The three made motivational statements condemning the action of the SJC in the previous trial and claiming that since they were to be allowed no political defenses, they would leave the courtroom. Denton Hand, their appointed counsel, remained behind and made a number of legal arguments challenging the validity of SJC procedures; all his motions were denied. According to some members of the 41 a group decision has been made to divide the 14 fines levied by the SJC among the entire 41, reducing the fine per person from seventy five dollars to around twenty-five dollars.