

The Unabomber Trial

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The other day I heard someone say that Ted Kaczynski killed Gil Murray. Equating Kaczynski with the Unabomber is hardly a surprise, yet it gave me chills to think that we are about to see another "circus trial" (beginning Nov. 12 in Sacramento) with media frenzy and public fascination sapping the legal process of its legitimate role. We all have a right to an opinion, and I certainly have opinions of my own, but maybe this is an opportunity to find a calmer, more responsible outlook on major trials.

First, there is the obvious principle of fairness to the defendant. We live in the federal court district from which the jury is being selected. What we say constitutes the social environment of this trial, and may affect appeals and future trials of the same defendant. We live where one intended victim and one actual victim had their roots. The national and international press may come to us looking for a "lynch mob" mentality.

Second, there is fairness to the prosecution. Publicity has raised our expectations of how easy their job will be, and yet obscured what, exactly, this job is.

Ted Kaczynski is not charged with possession of explosives or murder, both of which might be easier to prove. He is charged with crossing state lines carrying a bomb, and with placing and mailing bombs at specific times and places. There seems to be no direct, usable physical evidence (DNA, fingerprints, etc.), nor any eyewitness to him doing these things.

The prosecution has other sorts of evidence, some of it impressive, but it also faces some problems. Apparently, the only person ever to see the Unabomber is not willing to identify Mr. Kaczynski as the person seen, and there is one piece of evidence that the defendant was in Lincoln, Montana on the day a bomb was mailed in Sacramento.

None of this proves he is innocent.

None of it means he cannot be convicted.

It only means that demonstrating guilt in court is harder than implying guilt on television, and we should not burden the prosecution with unrealistic expectations based on media-driven judgments.

One outlet has already found a "color commentator" willing to predict that the trial will be a "slam dunk." What sense could it make to treat the legal process like an athletic team that cannot live up to its hype? Is packaging it as a soap opera or game show any better?

Then there are the wider social implications. The reason the government is trying Ted Kaczynski on these federal charges instead of state murder charges is that these are essentially anti-terrorism laws. Ever since the Oklahoma bombing, the government has been striving to use the issue of terrorism to enlarge its authority.

While it is fundamentally sound to treat terrorism as a national problem, we cannot afford to let fear of terrorism outweigh our love of freedom. We do well to remember how over-extension and abuse of central authority (at Waco and Ruby Ridge) actually helped incite terrorism by inspiring a member of the lunatic fringe to murder scores of innocent people in Oklahoma City.

Every terrorism trial is an opportunity to scrutinize what the government is doing in this realm. In the Kaczynski investigation, the government used spy satellites to watch an American citizen, on American soil for the first time (or the first time about which we know), even though doing so seems to have added nothing to the already intense surveillance of that tiny cabin.

Does this require a court order, as does wiretapping? Is there any way to limit such a practice? We can only hope this is not indicative of what the government feels it can do under the cloak of anti-terrorism.

Finally, this is a case that has drawn global attention. The judge, prosecutors, and defense team have all received communications that lead them to worry about security. Irresponsible characters exist on both sides of the issue. We will regret later anything we say now to make such people feel justified or supported in doing something threatening or violent. The jury will probably be kept anonymous during the trial. We should respect the reasons for that precaution, and keep it to ourselves if someone we know is gone a lot in the coming weeks.

The Ted K Archive

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