

Unabomber Wages Legal Battle to Halt the Sale of Papers

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Nine years after he began serving a life sentence for the Unabomber crimes, Theodore J. Kaczynski is fighting to reclaim more than 40,000 pages of his writings and correspondence so he can preserve them in their rawest form for the public to read.

Mr. Kaczynski, 64, is in a legal battle with the federal government and a group of his victims over the future of the handwritten papers, which include journals, diaries and drafts of his anti-technology manifesto.

The journals contain blunt assessments of 16 mail bombings from 1978 to 1995 that killed 3 people and injured 28, as well as his musings on the suffering of victims and their families. The government wants to auction sanitized versions of the materials on the Internet to raise money for four of Mr. Kaczynski's victims.

But, citing the First Amendment, Mr. Kaczynski has argued in court filings that the government is not entitled to his writings and has no right to alter them. The writings were among the items taken from his remote Montana cabin after his arrest in April 1996. In a motion drafted in pen, he said he planned to argue that the government had too much discretion under a federal restitution law to confiscate writings.

The four victims pursuing restitution from Mr. Kaczynski were initially reluctant to agree to the auction, fearing it could ghoulishly generate more notoriety for him and further publicize their pain. But some were equally horrified by the prospect of Mr. Kaczynski reclaiming his writings.

One of the victims, Gary Wright, a computer-store employee seriously injured in an attack 20 years ago next month, said it was difficult for the four to reach a consensus.

"How do you take four people and try to come to an agreement when they have been wronged in different ways and are in different stages of healing with different types of losses?" said Mr. Wright, now a businessman in Salt Lake City. "I'm sure that emotions were running rampant and that people were reliving it."

Mr. Kaczynski came to be known as the Unabomber after the Federal Bureau of Investigation's code name for the case, Unabom, coined because the targets included universities and airlines. In his 18-year bombing campaign Mr. Kaczynski seemed bent on thwarting the advance of technology, and his victims included university professors, scientists and business executives.

One victim who is not seeking restitution, David Gelernter, a professor of computer science at Yale, said in a letter to the court that he hoped "the criminal's property will be destroyed, or (if need be) sealed for a century at least and then made available at no charge to scholars of depravity."

A federal judge in Sacramento approved the government's auction proposal last August as a way for the group seeking restitution to collect some of the \$15 million it is owed by court order. But the judge ordered that any references to Mr. Kaczynski's victims be deleted.

Mr. Kaczynski challenged the deletions, asserting that they would violate his right to freedom of expression, and that his writings should remain intact.



Tom Smart for The New York Times

Gary Wright, a Salt Lake City businessman, was seriously injured 20 years ago in an attack attributed to Theodore J. Kaczynski, who is serving a life sentence at a maximum-security prison in Colorado.



David Duprey/Associated Press

Mr. Kaczynski's brother, David, is "in favor of anything that would help the victims," but does not want private family letters sold to collectors.

A lawyer for Mr. Kaczynski, John P. Balazs, said his client wanted to donate the originals to a library.

The Labadie Collection at the University of Michigan, which houses materials on anarchism and other protest movements, already has a sizable collection of Mr. Kaczynski's more recent writings and of correspondence since his arrest. Kelly Cunningham, a spokeswoman for the university, said that if Mr. Kaczynski offered to turn over additional writings, the university would examine them to determine whether they were suitable for the collection.

Among the documents that would be auctioned are letters that Mr. Kaczynski received over 25 years at his Montana cabin from his brother, David, and his mother, Wanda.

It was David Kaczynski who led the F.B.I. to his older sibling. And while he expressed support for the victims, he said he was distressed that private family correspondence might fall into the hands of strangers and that the government had not asked him if he wanted the letters.

"I'm in favor of anything that would help the victims," David Kaczynski said in an interview. "But in a personal sense, having these letters treated as murderabilia is appalling to us. How do you balance the need for human decency and dignity with doing the best thing?"

David Kaczynski said this would not be the first time that he had felt let down by the federal government. The F.B.I. had promised to keep his role in the case a secret and to give the family at least one day's warning before they arrested his brother. They did neither.

"I feel our family has a stake in preserving our privacy and dignity," he said, "but certainly our dignity is compromised by having our letters to Ted transformed into letters of curiosity for some collector of celebrity murder cases."

In the latest twist in a three-year legal battle over the writings, Theodore Kaczynski is adopting a new strategy that could, one of the prosecutors said, mire the case in the federal courts for at least another year or two.

Also known as Inmate 04475-046 at the federal maximum-security prison in Florence, Colo., Mr. Kaczynski has asked an appeals court to assign him a new lawyer who is an expert in First Amendment litigation. Otherwise, he has told the court, he wants to represent himself in an appeal of the ruling that authorized auctioning the papers.

In approving the auction, Judge Garland E. Burrell Jr. rejected Mr. Kaczynski's argument that the sale and altering of the original writings would violate the First Amendment.

Because of the pending appeal of Judge Burrell's ruling, the four victims cannot receive, for the time being, the \$7,025 the government collected towards restitution from the sale of Mr. Kaczynski's interest in his Montana land, according to Ana Maria Martel, an assistant United States attorney.

Susan Mosser, whose husband, Thomas J. Mosser, was killed 12 years ago after opening a package containing a bomb that had been sent to their North Caldwell, N.J., home by Mr. Kaczynski, expressed indignation.

“Did he worry about the rights of Hugh Scrutton, Tom Mosser or Gil Murray, from whom he took the right to live?” she wrote in an e-mail message sent through her lawyer.

“Or the rights of the other fathers, sons, brothers, sisters or husbands who were recipients of his bombs, and who suffered real, painful and genuine irreparable harm? Or the rights of those who loved them?” asked Ms. Mosser, who is one of the parties seeking restitution.

Mr. Kaczynski wrote prolifically. He was the author of a 35,000-word manifesto that was published in The Washington Post seven months before his capture. The New York Times jointly financed publication of the tract. Soon after his arrest, Mr. Kaczynski appealed unsuccessfully to the Supreme Court, arguing that his prosecution had been so tainted by news reports that the government had forfeited its right to prosecute him. In January 1998, he pleaded guilty to the federal charges against him.

In addition to Mr. Kaczynski’s writings, the government’s auction inventory includes an assortment of more than 250 books from his cabin. The titles include “The Brothers Karamazov,” “Roman Political Ideas and Practices” and “Fundamentals of Analytical Chemistry.” Among the other items cataloged for auction are bowstrings and arrows in a quiver, two axes, a scabbard and a Montana driver’s license.

In a July 2005 opinion that led the prosecution to propose an auction, the United States Court of Appeals for the Ninth Circuit said the government’s original plan for the sale of Mr. Kaczynski’s possessions “plainly fails to serve the victims and their families.”

“Though the government purported to represent these individuals, we see nowhere in the record their viewpoints and desires regarding the enforcement of the restitution order,” the opinion said.

The court said its understanding of the restitution plan was that the government would assign a value to Mr. Kaczynski’s items, deposit that amount of taxpayer money into an account for the victims and keep the property indefinitely. The ruling sent the matter back to the district court and stipulated that if the government did not produce a reasonable plan to maximize the monetary return to the victims, Mr. Kaczynski would get his property back.

Ms. Martel, the assistant United States attorney, said the group of four victims pressing for restitution initially had been unequivocal about not wanting any of Mr. Kaczynski’s possessions sold.

“Every time there was a discussion about what we should do with the goods, it was like opening a scab for them,” Ms. Martel said. “They were very anguished that Kaczynski would receive more publicity, and that someone was going to be buying his writings about taking pleasure in their suffering. But it was clear that if they didn’t agree to an auction, it would all go back to Kaczynski.”

The prospect of an auction also did not sit well with Mr. Gelernter, the Yale professor who was severely injured by one of the mail bombs in 1993. He filed a letter with the court in late 2005 in which he asked that the proposed sale not happen.

“My wife and I are outraged that the court has decided to turn the sale of this criminal’s property into a circus — or (more accurately) into a P.R. bonanza, starring the criminal himself,” Mr. Gelernter wrote. “Why have you decided to help vicious misfits with cash to burn lionize this evil murderer?”

In a recent e-mail message to The New York Times, Mr. Gelernter said he had nothing but pity and contempt for anyone who would bid on Mr. Kaczynski’s items unless “they’re acting for a police agency or some serious research project that seeks to rid the world of (not ‘understand’) such vicious cowardly thugs.”

But he emphasized that the other victims had the right to “call their own moral shots” and that he hoped that they received everything they wanted .

“God knows they deserve it,” Mr. Gelernter said.

The Ted K Archive

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