

JOSHUA SCHULTE SPOKE POSITIVELY OF EDWARD SNOWDEN THE DAY SNOWDEN CAME FORWARD

Here I thought that Joshua Schulte's lawyers had finally come up with a decent argument, that Paul Rosenzweig's testimony would be pointless to prove that Schulte, in choosing to leak to WikiLeaks, *intended* to damage the US because the government would have to prove Schulte knew of WikiLeaks when he allegedly first stole the CIA documents in May 2016.

But after pointing out that Schulte's lawyers already blew their chance to make that argument, in a response the government then pointed out how bad this argument is: because Schulte's lawyers have already admitted that, "of course, Mr. Schulte knew" about Chelsea Manning's leaks.

As an initial matter, the defendant's Reconsideration Motion directly contradicts the argument he made in his original motions in limine concerning Mr. Rosenzweig's testimony. The defendant argues in the instant motion that Mr. Rosenzweig's testimony should not be admitted because there is no evidence that the defendant knew of, for example, Chelsea Manning's disclosures to WikiLeaks. In his original opposition to the Government's motions in limine, however, the defendant argued the exact opposite:

Next, the government says that it intends to introduce evidence of Mr. Schulte's "knowledge of [Ms.] Manning's leak." Gov. Res. 11. The release of documents by Ms. Manning was front page news in every major

news publication for numerous days. Of course, Mr. Schulte knew about it; so did everyone else who picked up a newspaper. It is not clear what the expert would have to add to this information. (Dkt. 242 at 44).

Worse, the government lays out not just *that* Schulte wrote about both Manning's leaks to WikiLeaks and Edward Snowden's leaks, but discloses that they intend to introduce those chats at trial.

Moreover, even setting aside the dubious assertion that a member of the U.S. intelligence community could have been completely unaware of WikiLeaks' serial disclosures of classified and sensitive information and the resulting harm, the Government's proof at trial will include evidence that the defendant himself was well aware of Wikileaks' actions and the harms it caused. For example, WikiLeaks began to disclose classified information Manning provided to the organization beginning in or about April 2010, including purported information about the United States' activities in Afghanistan. In electronic chats stored on the defendant's server, the defendant discussed these disclosures. For example, on August 10, 2010, the defendant wrote in a chat "you didn't read the wikileaks documents did you?" and, after that "al Qaeda still has a lot of control in Afghanistan." In addition, on October 18, 2010, the defendant had another exchange in which he discussed Manning's disclosures, including the fact that the information provided was classified, came from U.S. military holdings, and that (according to the defendant) it was easy for Manning to steal the classified information and provide it to WikiLeaks.

Similarly, in a June 9, 2013 exchange, the defendant compared Manning to Edward Snowden, the contractor who leaked classified information from the National Security Agency, and stated, in substance and in part, that Snowden, unlike Manning, “didn’t endanger in [sic] people.”

Effectively, the government is going to show that Schulte – who like Snowden worked at both CIA and NSA (though in reverse order) – had decided the day that Snowden revealed himself that he hadn’t endangered *someone*.

I suggested in this post that the government appears to be preparing to use Schulte as an exemplar of an ongoing conspiracy, complete with their reliance on organized crime precedents.

[T]he government is preparing to argue that Schulte *intended* to harm the United States when he leaked these files to WikiLeaks, a stronger level of *mens rea* than needed to prove guilt under the Espionage Act (normally the government aims to prove someone *should have known* it could cause harm, relying on their Non-Disclosure Agreements to establish that), and one the government has, in other places, **described** as the difference between being a leaker and a spy.

To make that argument, the government is preparing to situate Schulte’s leaks in the context of prior WikiLeaks releases, in a move that looks conspicuously like the kind of ongoing conspiracy indictment one might expect to come out of the WikiLeaks grand jury, one that builds off some aspects of the existing Assange indictment.

That is, the government appears to be using Schulte to lay out their theory – rolled out in

the wake of the Vault 7 leaks – that Wikileaks is a non-state hostile intelligence service.

To be sure, there's nothing in the least bit incriminating about talking about Snowden in real time. But it will make it a lot easier to hold Schulte accountable for leaking stuff in a far more damaging way in 2016 than Snowden did in 2013.

As I disclosed in 2018, I provided information to the FBI in 2017.