

JURY CONVICTS STERLING ON ALL NINE COUNTS



Courtroom sketch by Debra Van Poolen
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After having deliberated for slightly over 2 days, the jury today found Jeffrey Sterling guilty of all nine counts today. (See a summary of the charges [here](#).)

I'm not surprised the jury found Sterling guilty of some of the charges: of leaking Risen information on Merlin and the operation he was involved in, and of retaining and then leaking Risen a document involved in that. The government multiplied the charges for both the 2003 *New York Times* story (at which point, Sterling and Risen had only spoken for two minutes and 40 seconds) and the 2006 book (by which point they had had more lengthy discussions), such that each leak amounted to multiple charges. In addition, the jury convicted Sterling of passing government property worth over \$1,000, and of obstruction of justice.

It's the last charge that really raises questions about how the jury understood their instructions.

That's because the government charged Sterling for obstructing the investigation by destroying

a totally unclassified email he sent to James Risen in March 2003; he destroyed that email sometime between April and July 2006. The government made no allegation that Sterling ever entered Virginia during this period, much less destroyed the email there. In other words, there is no way Sterling should have been found guilty on that charge *in Virginia* (though it was easily the charge for which there was the most evidence to convict him of, had it been charged in Missouri). So that guilty verdict should make it easier to prove that the jury misunderstood the venue questions.

The other thing I think the defense might have grounds to appeal was Leonie Brinkema's decision (which remains classified) that kept out details showing that several of the witnesses against Sterling – up to four of the people cleared into the Merlin operation – had, like Sterling, kept classified documents at home. One of the few concrete pieces of evidence against Sterling was that he had kept (probably retroactively) classified documents at home, which the government presented in big red printed SECRET folders. But, if (as seems highly likely) Bob S also did the same, it might raise questions about why FBI never investigated him as a potential source.

There's much more that raises questions about the legitimacy (though not necessarily the outcome) of the trial, such as the things CIA managed to keep secret, including that the CIA had declared state secrets over some of the evidence submitted at trial to deprive Sterling of the ability to sue for discrimination.

And, finally, the verdict raises real questions about the economy of leaks in DC, in which people may point reporters to stories, only to have the reporters dig up damning evidence from other sources (which is what seems most likely to have happened here). Jeffrey Sterling just got found guilty for causing James Risen to publish a story to (the government claimed) avenge his crummy treatment by the CIA.

Sterling's guilty verdict allows no room for Risen to have decided to publish a story about CIA's horrible record on WMD. This verdict will not only send Sterling to prison, but it turns journalists into agency-free vehicles of their sources.