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## The Spies Who Got Away

Posted By [Justin Raimondo](#) On May 3, 2009 @ 9:00 pm In [Uncategorized](#) | [22 Comments](#)

After [five years](#) of [legal maneuvering](#) and [orchestrated protests](#) from the Lobby's amen corner, Israel's point men in Washington have finally succeeded in their efforts to quash the prosecution of [Steve Rosen](#) and [Keith Weissman](#), who had been [charged](#) with committing [espionage](#) on behalf of Israel. It is a victory that not only signals the continuation of the Lobby's dominance in Washington, in spite of [growing](#) popular revulsion against lobbyists in general, but also gives the Israelis a blank check to spy on their American patrons to their hearts' content.

The hosannas being sung by the Lobby's media echo chamber – the *Washington Post*, the neocon blogosphere, and the official conservative movement represented by *National Review* and the *Weekly Standard* – are all about "vindication." That is the word used by [Jeffrey Goldberg](#), *The Atlantic's* Israel-centric columnist, to describe the decision to drop the charges, but – as usual – his interpretation of the facts leaves much to be desired.

The [statement](#) [.pdf] from the prosecutors avers that the case was dropped due to the success of the "[graymail](#)" strategy pursued by the defense. The government had to consider "the likelihood that classified information will be revealed at trial, any damage to the national security that might result from a disclosure of classified information and the likelihood the government would prevail at trial," as well as the "changed landscape" of the case, a reference to the [many rulings](#) by judge T.S. Ellis that forced prosecutors to delay going to trial for five years.

After a long, drawn-out process of legal back-and-forth, the judge had set up the trial as a veritable three-ring circus, upholding defense subpoenas issued to such [notables](#) as Condoleezza Rice, Stephen J. Hadley, and a whole host of former and current U.S. government officials, who would have been dragged into the courtroom and closely questioned about highly classified intelligence matters. Ellis also [granted](#) defense motions to include a wide range of classified information, including documents – the idea being to make the U.S. government spill the secrets the Israelis stole, via Rosen, Weissman, and their co-conspirator [Larry Franklin](#), a former [top analyst](#) at the Pentagon whose specialty is Iran.

Franklin [pled guilty](#) to espionage charges in 2005 and was sentenced to 12 years in the hoosegow plus a substantial fine. His handlers, however, have escaped, not only unscathed but [hailed](#) by the Lobby and its friends as persecuted heroes. Yet the confession, conviction, and sentencing of Franklin stand as the perfect rebuke to the AIPACers' claims of "vindication." If no crime was committed, then why not free Franklin? This is precisely what his defenders have advocated, yet it won't happen for the very good reason that the charges against Franklin stand, along with his *confession* and his punishment, as testimony to the fact that a real crime was indeed committed.

One merely has to read [the indictment](#) to see that: at one clandestine rendezvous of the Rosen-Weissman-Franklin spy cell, they moved the venue to [three different restaurants](#) in the course of a single meeting. They were afraid – rightly, as it turned out – they were being followed, because they knew they were committing a crime.

Yet this knowledge, according to the judge in this case, wasn't enough to establish their guilt. What government prosecutors had to prove, Ellis ruled, is that the defendants [intended](#) to harm the U.S. and its national security interests,

consciously and deliberately, a uniquely narrow standard that doesn't [seem](#) to apply to any other statute on the books. The closest is "[hate crimes](#)" legislation, which purports to read the minds of the perpetrators of violent acts and directly perceive their motives. The Ellis doctrine, if you will, applied to laws against espionage means the subjective *perceptions* of the accused, not their objectively [verifiable](#) actions, are the key to determining whether or not a crime has been committed.

Did Rosen and Weissman hand over top-secret U.S. intelligence to Israeli government officials, yes or no? Well, yes, *but...* they thought they were defending the "real" interests of the U.S. by doing so, since, as we all know, U.S. and Israeli interests are always and forever [identical](#). From this perspective, Rosen, Weissman, and certainly Franklin were just misguided "idealists" who perhaps went a little too far, but their hearts, after all, were in the right place.

What this decision means is that espionage has been legalized, for all intents and purposes, as long as it is engaged in by Israel – and not, say, [Iran](#), [Russia](#), or [China](#) – and insofar as these fifth columnists-cum-lobbyists take pains to argue that they're doing it for our own good.

This was precisely the argument made by Franklin's lawyers before he made a deal with the government to cooperate with prosecutors in exchange for leniency: that he handed over classified information to Rosen, Weissman, and at least two Israeli government officials, out of "[patriotism](#)," because he thought U.S. policy wasn't pro-Israel enough. Judge Ellis displayed his sympathy for this "misguided idealist" ploy when he [commended Franklin](#) [.pdf] for having the purest of motives even as he handed down the sentence.

If we look at the concerted efforts undertaken by the Israelis and their American adjunct organizations to influence U.S. policymaking, especially when it comes to the Middle East, as a covert action operation – a focused campaign involving [both Israeli](#) and [American](#) components – then it surely has to go down in the annals of spycraft as one of the most successful in history. The consequence of this case is that Israeli agents – of whatever citizenship status – can now move freely over the boundaries between lobbying and espionage, with nary a worry about being held accountable.

Israeli spying in the U.S. is a subject the American media has not dared cover. Except for [Antiwar.com](#) and a few other sources, coverage of the Rosen-Weissman case has been sketchy to nonexistent. It wasn't until the [Harman affair](#) blew up in the Lobby's face and [captured headlines](#) for a while that anyone even remembered it: in the news business, five years is an eternity.

Yet the significance of this case and its far-reaching implications for U.S.-Israeli relations would seem to dictate a different level of coverage. That famous [four-part Fox News report](#) on the surprising extent of Israel's covert activities in the U.S. underscores the dangers of granting this type of access – particularly when it seems to be almost entirely a [one-way deal](#).

In addition, the dismissal of all charges against Rosen and Weissman means that the rest of the spooks who haunt Washington will be further emboldened. After all, if it is okay for the Israelis to mine the corridors of power for vital U.S. secrets, then why not them? Whether the Justice Department will give the Chinese, say, the same sort of kid-gloves treatment as is now being afforded to Israel's American agents remains to be seen. Somehow, I [doubt it](#), yet one wonders how they'll go about legalizing such a glaring double-standard.

Espionage in an ordinary state is an easily recognizable crime: it involves stealing closely guarded information, which the government classifies as "[top secret](#)," and passing it on to foreign governments, deliberately and with aforethought. The U.S., however, is no ordinary state. Washington, D.C., is the Imperial City, the capital of a [world empire](#), where the trading of insider information is the [chief industry](#). With

foreign lobbyists gathered at the foot of the throne, all clamoring for attention, any and every means to gain favor and influence at court is used, and then some. The Americans, who decide the fate of nations with a single decree, find themselves invaded by supplicants whose methods are increasingly aggressive – and successful. To be besieged by them is part of the price of empire.

As Garet Garrett warned [half a century ago](#): "There is no security at the top of the world" – no, not even when it comes to guarding the nation's most closely held secrets. We have become, as Garrett predicted, a prisoner of our own satellites: "No Empire is secure in itself," he wrote, in [1952](#), "its security is in the hands of its allies." In the case of our increasingly troublesome ally, Israel, this is now literally true: in dropping the charges against Rosen and Weissman – and allowing [AIPAC](#), the organization for which they worked and which served as a cover for illegal activities, to function [without](#) registering as a foreign agent – we have handed them the keys to the safe deposit box wherein our most vital secrets lie.

The decision to drop this case was clearly made at the top, not by the local prosecutors. Indeed, there was reportedly an energetic internal debate. The lawyers for Rosen and Weissman, for their part, clearly credited the Obama administration for the decision to quash the case, as the *Washington Post* [reported](#):

*"Lawyers for Rosen and Weissman attributed the withdrawal of the case in part to the Obama administration. 'We are extremely grateful that this new administration ... has taken seriously their obligation to evaluate cases on the merits,' the lawyers, Abbe D. Lowell, John Nassikas, and Baruch Weiss, said in a statement. "*

While there is no direct evidence of any involvement by the White House, we have every reason to take this statement at face value. The idea that this was a decision made solely by prosecutors, over the strenuous objections of the FBI agents on this case, is further debunked by a *New York Times* [account](#), which pointedly qualified routine denials of political interference:

*"Several other officials said, however, that while senior political appointees at the Justice Department did not direct subordinates to drop the case, they were heavily involved in the deliberations. These officials said David S. Kris, the newly appointed chief of the department's national security division, and Dana J. Boente, the interim United States attorney in Alexandria, had conferred regularly with prosecutors and ultimately decided to accept the recommendation to abandon the case. Attorney General Eric H. Holder was informed and raised no objections. "*

Whether this case was dropped because it became a trading card in Obama's increasingly [contentious](#) relations with the Israelis or because it was the victim of Israel's increasingly aggressive intervention in American politics we'll leave for future historians to decide. What is clear, at this point, is that it is now effectively legal for AIPAC and its allies to function quite openly as an intelligence-gathering entity for the Israeli state. The line between lobbying and espionage has been erased, at least as far as Israel's activities in the U.S. are concerned.

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