

# US Government Seeks Harshest Sentence Ever In Leak Case Against Drone Whistleblower

by *Kevin Gosztola*, published on *The Dissenter*, July 20, 2021

The United States government urged a federal court to sentence drone whistleblower Daniel Hale to at least nine years in prison for disclosing documents to a reporter.

Prosecutors maintained Hale joined the National Geospatial Intelligence Agency (NGA) to steal classified information so he could *“ingratiate himself”* with journalists. They even submitted secret evidence for the court alleging the Islamic State in Iraq and Syria (ISIS) *“distributed”* two of the documents in a *“guidebook for its followers.”*

*“For those like Hale, who unilaterally decide to disclose classified information, the existence of criminal penalties that are theoretically harsh but practically lenient is not sufficient,”* prosecutors declare in their sentencing memorandum [PDF]. *“It is particularly important to deter those who, like Hale, might be tempted to gain access for the sole purpose of disclosing it. Such individuals must see that using positions in the intelligence community for self-aggrandizement will be harshly punished.”*

*“A significant sentence is necessary to demonstrate that the unauthorized disclosure of classified information is a serious crime with significant consequences,”*

prosecutors add.

Hale was part of the drone program in the U.S. Air Force and later worked at the NGA. He pled guilty on March 31 to one

charge of violating the Espionage Act, when he provided documents to Intercept co-founder Jeremy Scahill and anonymously wrote a chapter in Scahill's book, *The Assassination Complex: Inside the Government's Secret Drone Warfare Program*.

He was taken into custody and sent to the William G. Truesdale Detention Center in Alexandria, Virginia, on April 28. A therapist from pretrial and probation services named Michael violated patient confidentiality and shared details with the court related to his mental health.

Hale is scheduled to be sentenced in the Eastern District of Virginia on July 27, and the sentencing memorandum from the U.S. government reflects the vindictive posture of prosecutors, particularly since he pled guilty.

**DEFENDING RIGHTS & DISSENT**

**US GOVERNMENT SEEKS HARSHTEST SENTENCE EVER IN LEAK CASE AGAINST DRONE WHISTLEBLOWER DANIEL HALE**

Kevin Gosztola  
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**WAR DAY 7249**

HALE WAS PART OF THE DRONE PROGRAM IN THE U.S. AIR FORCE AND LATER WORKED AT THE NGA. HE PLED GUILTY ON MARCH 31 TO ONE CHARGE OF VIOLATING THE ESPIONAGE ACT, WHEN HE PROVIDED DOCUMENTS TO INTERCEPT CO-FOUNDER JEREMY SCAHILL AND ANONYMOUSLY WROTE A CHAPTER IN SCAHILL'S BOOK, THE ASSASSINATION COMPLEX: INSIDE THE GOVERNMENT'S SECRET DRONE WARFARE PROGRAM. HALE IS SCHEDULED TO BE SENTENCED IN THE EASTERN DISTRICT OF VIRGINIA ON JULY 27, AND THE SENTENCING MEMORANDUM FROM THE U.S. GOVERNMENT REFLECTS THE VINDICTIVE POSTURE OF PROSECUTORS, PARTICULARLY SINCE HE PLED GUILTY.

### 'They Just Don't Want To Play Ball'

Prosecutors refused to dismiss four additional charges but declined to request a trial on those charges. They left open the possibility of going to trial if they are unsatisfied with the harshness of the sentence. And they now manipulate Hale's guilty plea in their argument for severe punishment in order to render it insignificant.

*"[Hale] apparently does not accept that the documents that he provided to reporter had the potential to cause such 'serious' or 'exceptionally grave' damage to the national*

*security,”*

prosecutors contend.

*“To trigger a reduction in offense level for acceptance of responsibility, a defendant must establish that he has accepted responsibility for all of the charged criminal conduct in the count of conviction (and, of course, all related conduct).”*

Prosecutors indicate they would accept a sentence of seven years and 3 months if Hale admitted his whistleblowing risked “serious” or “exceptionally grave” damage to U.S. national security.

In other words, they do not believe Hale’s guilty plea is good enough to receive a sentence of five years or less, and they have trapped a conscientious and vulnerable individual in a damned if you do, damned if you don’t situation.

Hale could try and withdraw his guilty plea and go to trial, but Judge Liam O’Grady may not allow it. Or he could plead guilty and accept the documents risked “serious” or “exceptionally grave” damage, even though he does not believe that is the truth of what happened.

Either way, Hale is likely to receive the most harsh sentence for an unauthorized disclosure of information ever issued against a former U.S. government employee or contractor.

CIA whistleblower John Kiriakou was targeted in the Eastern District of Virginia with an Espionage Act prosecution under President Barack Obama. He eventually pled guilty to violating the Intelligence Identities Protection Act in order to ensure he only went to prison for 30 months.

*“In every other case, including mine, part of the deal was you’ll take the plea to the one charge in exchange for all*

*the other charges being dropped. That's what everybody else does, except of course, for [CIA whistleblower] Jeffrey Sterling, who went to trial,"*

Kiriakou contended.

*"They just don't want to play ball, and they're placing the blame on Daniel."*

*"That doesn't make sense because he's agreed to plead guilty to the most serious charge with the expectation that the other charges would be dismissed. And they're not willing to negotiate in good faith,"*

Kiriakou added.

### **'This Makes Me Sick To My Stomach'**

U.S. prosecutors submitted secret "evidence" to the judge, which they refuse to declassify for the public. The submission is part of an "internet compilation" that they claim was "designed to assist ISIS fighters avoid detection and targeting." It allegedly included parts of two documents disclosed by Hale.

Hale never transferred or provided documents directly to any ISIS member or any person claiming to be associated with the militant group. Prosecutors are further criminalizing him because terrorists have access to the internet just like all citizens of the world do.

The sentencing memorandum invokes the cases of NSA whistleblower Reality Winner and FBI whistleblower Terry Albury, which both ended in plea agreements. Winner was sentenced to 63 months. Albury was sentenced to 48 months.

*"Like Hale, Winner disclosed information classified at the 'Top Secret' level. Unlike Hale, Winner disclosed only a*

single document," the memo states. "Albury was sentenced for retaining 50 classified documents and transmitting some of them to a reporter – but none of the documents Albury disclosed was classified above the 'Secret' level."

"Hale stole documents from NGA on at least seven different dates over a four-month period, and his thefts were the result of a plan premeditated long before that," the memo argues.

Winner's sentence was, at the time, the harshest sentence ever issued against a former government employee or contractor. To act like it was fair and should be a base line for leak prosecutions going forward is extraordinary.

Billie Winner-Davis, the mother of Reality Winner, reacted, "This makes me sick to my stomach to think that they are using Reality's sentence to punish Daniel Hale even more severely."

*"Watching what the government did to my daughter and the way that they destroyed her life completely has shown me just how cruel our government can be. From what I know about Daniel's case, he has also suffered so much already from this experience."*

*"Through my experience with Reality, I've come to believe that only violent offenders and those who are a true danger to our society should be imprisoned,"*

Winner-Davis shared.

*"To imprison those who work to protect us and give us the truth is an injustice. I pray he does not get sentenced to prison."*

*"There are so many other ways that our government could work with him. [Daniel's] already shown in the last five years that he is no threat to anyone."*

But the U.S. government seems to view Hale's case as an opportunity to move away from sentences that are not cruel enough to make an example out of "leakers."

*"We recognize that sentences imposed in some past 'leak' cases were not commensurate with the government's view of the seriousness of the defendants' conduct, or nearly serious enough to deter others from engaging in similar conduct,"*

prosecutors declare, referring to Sterling's case.

*"We cannot justify or explain such sentences, but only point out that a past court's failure to recognize the significance of the need to deter similar behavior by other individuals should not induce this court to make the same mistake."*

### **Sketching A Caricature Of A Conscientious Young Veteran**

The sentencing memorandum sketches a caricature of Hale as a young man who "jumped at the chance" to "fraternize" with Scahill and his colleagues. They take a chat message out of context and suggest he "looked up to [journalists] like rock stars" and wanted to become a journalist to "speak truth to power" while "hav[ing] great sex all the time and mak[ing] just enough to live but not too much that [he] [became] a part of the upper crust."

To this idea that Hale "ingratiated himself" with journalists and wanted to become a rock star reporter, Noor Mir, one of his closest friends, replied,

*"Anyone who knows Daniel knows that he puts himself last in every situation, focused entirely on helping those who are in need, have been silenced, or suffered insurmountable harms. This is a gross mischaracterization of his character to all those that know him to be humble and moral to a fault."*

It was difficult for Hale to speak in public, according to Mir. When he participated in a “*drone summit*” organized by CODEPINK, which Mir was involved in organizing, he “prepared for a long time and was very nervous. But he also knew that there were family members of victims of drone strikes in the audience from Yemen, who had witnessed the injustices of which he spoke.”

Media outlets, who did not know Hale’s identity, referred to Hale as the “*second Snowden*,” a nod to NSA whistleblower Edward Snowden.

The Oscar-winning documentary “*Citizenfour*” about Snowden featured a scene where journalist Glenn Greenwald revealed details about Hale to Snowden. Scahill spoke about Hale toward the end of the film.

If Hale wanted to be a “*rock star*” journalist, he could have used all of that as a springboard and fled the country to some place where he could speak out more.

Yet a recent feature story on Hale by New York magazine reporter Kerry Howley makes clear, “*Nearly no one knew who Second Snowden was then or for years afterward.*” He grew a “*ZZ Top beard*” during the COVID-19 pandemic (after his trial was delayed). He wore donated clothing, and friends “*pressed him to go public with the story of how and why*” he disclosed documents. “*But Daniel maintained that in talking about himself he would be taking the spotlight from victims of the drone war.*”

Even after an intervention was staged at a tavern in Washington, D.C. in November 2020, and his friends insisted he tell his story so the prosecution’s story did not go unchallenged, Hale still waited until early April to talk with a reporter.

Kiriakou said the thought that Hale wanted to “*ingratiate himself*” to journalists is so ridiculous that it’s laughable.

*"They said the same thing about me. That I was trying to ingratiate myself with journalists and to seek a career as a commentator with ABC News,"*

Kiriakou recalled.

*"Nothing could have been further from the truth. I had a job that was paying me four times what ABC News offered me. I didn't need a job from ABC News. I never sought a job at ABC News."*

All anybody had to do was look at Kiriakou's bank account that was empty to see the prosecutors were pushing a false narrative, he added.

Like Kiriakou described, this has become fairly standard. The U.S. prosecutors try to *"make the defendant look like a narcissist."* They maintain *"it's all about fame, and it's all about the money. And they just ignore the facts."*

After Hale returned from his Air Force deployment in Afghanistan, Howley reported, *"He wanted to go to school, and for this he needed money, and as an analyst with a security clearance, money was easily made."*

*"Six months after meeting Scahill, Daniel had left the Air Force and started working for Leidos, a company that makes more than \$10 billion a year in revenue by convincing the federal government of its utility. He said he would only do it for six months, a promise he kept."*

Hale did not work at the NGA to steal classified documents. He worked for the intelligence agency because he needed to pay for a college education.

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