



Why I Fight for Emily Doe and Against the Recall

Jeffrey F. Rosen, District Attorney of Santa Clara County

As District Attorney, I oversaw the successful prosecution and conviction of rapist Brock Turner. The judge imposed a lawful, though far too lenient, sentence that was recommended by the County's Probation Department. I vehemently opposed the sentence. Our reaction to it was swift, decisive, and fair. It was not an attack on the judge. We acted against an outdated law. We fought against the false notion that the rape of an unconscious woman was somehow less violent, less serious, less traumatic, less.

"On nights when you feel alone, I am with you. When people doubt you or dismiss you, I am with you. I fought every day for you. So never stop fighting, I believe you."

Standing a few feet away from me, Emily Doe read her letter to Brock Turner's back. I had no idea at the time that her sadness and anger with Turner's sentence would change the way the world thinks about sexual assault, that millions would be deeply moved. I only knew that I was. I released the letter that day with hopes that perhaps it might help some local victims. It spread within days from that courtroom in Palo Alto to millions of people around the world.

Within months, actor Sharon Stone was reading Emily Doe's letter in front of legislators, law enforcement, advocates and experts at a symposium on Campus Sexual Assault that we convened at Santa Clara University. At its completion we announced that Santa Clara, San Jose State and Stanford had – along with our Office – co-signed an unprecedented memorandum of understanding dictating how we would better coordinate our handling of campus sex assaults.

Then, I wrote the law later enacted by the California Legislature and signed by Governor Jerry Brown making sure that future Brock Turner's will be sent to prison, where rapists belong.

Even Emily Doe told Turner that she hoped that he would remake his name and make the world a better place. Our actions were meant to tangibly address the national frustration that arose from conditions that allowed for Turner's sentence. They were made through reflection and reason, not revenge.

Notwithstanding my strong disappointment at the sentence, I am firmly opposed to the recall of Judge Persky. Subjecting judges to recall when they follow the law and do something unpopular undermines judicial independence. This value is more important than any outcome in any individual case. When judges believe that they will lose their careers for making unpopular but lawful decisions, they may lack the courage to stand up for the rights of minorities or others needing protection from powerful majorities or those with even understandably inflamed passions. Were it not for this principle, it is hard to see how our country would have cherished rights that we now sometimes take for granted: civil rights, integrated schools, free speech, access to birth control, and marriage equality, to name a few. Judges who made unpopular decisions in favor of these values have been threatened with recall or have been recalled, even in recent years.

I support the principle of recall, but only in circumstances where a judge has exhibited a pattern of abuse or favor for one group of people over another, is unable to perform his duties, or is biased. The findings of our local bar, the State's Commission of Judicial Performance, and my review of Judge Persky's decisions have concluded the same thing: there is no pattern.

Perhaps we should think less about Brock Turner's sentence and more about Emily Doe's sentences. Let's heed the calls for help from millions of survivors, rather than recall a single judge.