

California appeals court refuses to dismiss case against Roman Polanski

Hiram Lee

23 December 2009

The Second District Court of Appeals in California has denied Roman Polanski's request that the case against him be dismissed. While refusing to dismiss the case, the 70-page appeals court decision, authored by Justice Laurie D. Zelon, left open a number of legal possibilities that Polanski could still pursue and made some startling admissions regarding judicial misconduct in the director's original 1977 court case.

Polanski is currently living under house arrest at his home in Gstaad, Switzerland, awaiting the Swiss government's decision on whether or not it will extradite him to the United States. Prior to this, he was held for more than two months in a Zurich prison.

The renowned film director pled guilty in 1977 to one count of "unlawful sexual intercourse" with a minor, but fled the US before sentencing when it became clear the presiding judge, the late Laurence J. Rittenband, was going to renege on a plea agreement reached between the prosecution and defense attorneys. Polanski remained free for more than 30 years until he was arrested while on his way to a Swiss film festival in September.

This week's decision by the Court of Appeals found that Judge Peter Espinoza of the Los Angeles Superior Court had ruled within his discretionary authority when he refused earlier this year to hear a motion for dismissal by Polanski's attorneys. Espinoza, applying the "fugitive disentitlement doctrine," refused to hear the motion for dismissal unless Polanski returned to the US and was present in the courtroom.

However, even as the appeals court judges ruled against Polanski, they found they could "not disregard the extremely serious allegations of judicial and prosecutorial misconduct that have been brought

forward," regarding the original 1977 court proceedings. The ruling urged an investigation into claims of misconduct.

Polanski's initial court case, which took place in the center of a media feeding frenzy, was characterized by serious judicial misconduct. During the 1977-1978 proceedings, Polanski underwent a psychiatric evaluation after entering a guilty plea on the one charge. The evaluation found that Polanski was not a "mentally disordered sex offender," and recommended a sentence of probation. Unsatisfied with this result, Judge Rittenband sought to punish Polanski by sending him for a 90-day diagnostic evaluation at California's Chino State Prison.

Rittenband made clear that he ordered the diagnostic test because it was the only way he could send Polanski to prison without the director being legally able to appeal. The use of a diagnostic evaluation as punishment was illegal and drew protests from both the prosecution and defense attorneys in the case.

When the diagnostic evaluation also found Polanski was not a mentally disordered sex offender and released him early, recommending he receive probation as a sentence, the judge became furious. Embarrassed by the prospect of letting such a high-profile defendant go free, Rittenband threatened to throw the book at the director, prompting Polanski to flee the country.

Addressing the Rittenband proceedings, the Second Court of Appeals decision declared that allegations brought forward by Polanski "are in many cases supported by considerable evidence, including declarations from both prosecutor [Roger] Gunson and defense council [Douglas] Dalton."

Remarkably, even as the court refused to dismiss Polanski's case, its decision often seems to side with the director and argue on his behalf. In one passage, on

the allegations made by Polanski against Judge Rittenband, the document reads, “To the extent that these allegations are true—and from the documentary evidence filed with this court, it appears to this court that there is a substantial probability that a court conducting an evidentiary hearing would conclude that many, if not all, are true—they demonstrate malfeasance, improper contact with the media concerning a pending case, and unethical conduct.”

In the section of the decision entitled “Remedies Available to Polanski Today,” the appeals court lays out a number of legal options that Polanski and his attorneys may now choose to pursue. Polanski, says the court, could, if he chooses, agree to be sentenced in absentia. In this event, one of Polanski’s attorneys would represent him in the US court during sentencing and could at that time argue that the appropriate sentence would be “time served.”

“If Polanski presents admissible evidence,” the decision says, “leading the trial court to conclude that Judge Rittenband committed to the diagnostic study as Polanski’s entire punishment, it is difficult to imagine that the trial court would not honor that commitment today.”

Polanski could also drop his fight against extradition, return to the US, and go to court, either requesting that his case be dismissed in person or filing a writ of habeas corpus asking the court to immediately halt all sentencing proceedings.

It is not yet clear what path Polanski and his attorneys will pursue. They have refused to make any public statements regarding their next move. Given the treatment Polanski has received at the hands of the American and Swiss legal systems thus far, it is doubtful the director will find it “as difficult to imagine” as the appeals court judges that the trial court would not honor previous commitments.



To contact the WSWS and the
Socialist Equality Party visit:

[wsws.org/contact](https://www.wsws.org/contact)