

Appeal by Polanski's lawyers exposes new details of judicial misconduct

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An appeal filed on Thursday by attorneys representing filmmaker Roman Polanski has brought to light damning new evidence of judicial misconduct in the 1977 hearings held about his sexual encounter with a teenage girl.

The appeal argues that in light of new revelations about misconduct on the part of the judge and district attorneys in the initial court case, Polanski should either be released from custody immediately with a sentence of “time served”; or, at the very least, that recent sealed testimony regarding the misconduct should be made available to the Swiss authorities set to decide whether or not the Polish-French director should be extradited to the US.

Polanski was first arrested in Los Angeles, California, in 1977 and eventually charged with one count of unlawful sexual intercourse with teenage model Samantha Geimer. The court proceedings that followed became a media circus and have since gained notoriety for the improper conduct of presiding Judge Laurence J. Rittenband of the Superior Court of Los Angeles County.

The 2008 documentary *Roman Polanski: Wanted and Desired* (Marina Zenovich) investigated the court case and exposed several instances of misconduct by the judge. Among them was Rittenband's decision to force Polanski into a mandatory 90-day diagnostic assessment and mental evaluation at California's Chino State Prison as a means of punishing the director. Because the diagnostic was mandatory, this was the only way Polanski could be sent to prison with no legal right to appeal. Both the prosecution and defense team in the case protested the decision, arguing that it was illegal to use the test as a means of punishment.

While much of what the documentary revealed about

the case was believed to have been unknown until recently, new testimony by Roger Gunson, the lead prosecutor in the 1977 hearings, suggests that prominent officials in the Los Angeles and California criminal justice system were well aware of Judge Rittenband's behavior at the time and did nothing to stop it.

According to the appeal filed Thursday, Gunson informed his superiors at the district attorney's office at the time of the original court proceedings that he was preparing to file papers calling for the removal of Rittenband from the case. He gave a draft of his affidavit to Los Angeles County's Chief Deputy District Attorney Stephen Trott and supervising Deputy District Attorney Michael Montagna. When asked how they could verify Gunson's claims against the judge, Gunson invited them to talk to Rittenband personally.

Trott and Montagna then met with Rittenband and reported back to Gunson. Incredibly, they informed Gunson that Rittenband had “admitted all of the alleged misconduct,” but that in spite of this they would deny Gunson permission to have the judge dismissed from the case.

This revelation exposes the degree to which illegal conduct prevailed in the 1977 court proceedings, involving not only the behavior of the judge, but also conduct “at the highest levels of the district attorney's office in August 1977,” in the words of the appeal. It is now clearer than ever before that Roman Polanski was never granted a fair trial in the US. His constitutional rights have been violated repeatedly during the entire affair.

In addition to the revelations regarding misconduct at the 1977 proceedings, the filmmaker's attorneys allege that prosecutors behind Polanski's current legal battle over extradition supplied false information to

authorities in Switzerland that would support a ruling in favor of extraditing Polanski. His attorneys argue that prosecutors have known for several years that Judge Rittenband never intended for Polanski to serve more than 90 days behind bars, and that this sentence falls far below the Swiss government's threshold for extraditing prisoners. According to the country's justice ministry, Switzerland will not extradite someone who is not expected to serve at least six months in prison.

Polanski has already served more time in custody than the 90 days ordered by Rittenband. In addition to the 42 days he spent at Chino State Prison in 1977, before the authorities administering the diagnostic test recommended his early release, Polanski spent 69 days in a Zürich prison cell in 2009. Since then he has served 100 days under house arrest in his home in Gstaad, Switzerland.

Polanski remains under house arrest while awaiting the outcome of his latest appeal. The Swiss government has indicated they will postpone extradition hearings until the courts in Los Angeles rule definitively on whether or not Polanski may be sentenced in absentia.



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