

Court denies filmmaker's appeal

Vindictive prosecution of Polanski continues

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On Thursday a California appeals court denied an appeal by filmmaker Roman Polanski to be sentenced in absentia, for time served, for having sex with an underage girl in 1977. This opens the door to Polanski's possible extradition to the US to face sentencing in person.

The Second District Court of Appeal also refused to authorize a special counsel to review the three-decades-old case, or unseal secret testimony by its former prosecutor, apparently detailing judicial and prosecutorial misconduct.

Only hours earlier, the court threw out a request by the woman involved in the Polanski case, Samantha Geimer, who was 13 at the time of the incident, to have the case dismissed. In his March 23 filing, Geimer's lawyer, Lawrence Silver, termed the ongoing prosecution of Polanski "stale of fact and devoid of current purpose except to advance a political career. Justice is not made of such stuff."

Polanski, arrested in Zurich last September, has been under house arrest at his ski chalet in Gstaad, Switzerland, since early December. Swiss authorities had put the extradition process on hold pending the outcome of the legal proceedings in Los Angeles. It remains unclear whether Polanski's lawyers will appeal the ruling to the state's Supreme Court.

The Swiss justice ministry claims that it will not extradite anyone facing less than six months in prison; US legal authorities assert that Polanski faces the possibility of a two-year sentence.

After a plea bargain in August 1977, which resulted in his plea of guilty to unlawful sexual intercourse, Polanski was sent to California's Chino state prison for a 90-day diagnostic evaluation (in reality, a form of punishment), with the understanding that this would be

the extent of his incarceration. The diagnostic study recommended probation. The judge in the case, Laurence Rittenband, allegedly under pressure from the media and officials in the Los Angeles district attorney's office, threatened to renege on the plea bargain agreement and sentence Polanski to a much longer term in jail, prompting the film director to flee the country.

Both Polanski's original lawyer, Douglas Dalton, and the prosecutor in the case, Deputy District Attorney Roger Gunson, have made statements charging Rittenband with misconduct. It is Gunson's recent secret testimony, given in February and March 2010, that remains sealed with Thursday's decision. According to Polanski's lawyers, the sealed testimony reveals that Gunson informed his superiors in the Los Angeles district attorney's office of Rittenband's misconduct in 1977, but they denied him permission to have the judge dismissed from the case.

The appeals court action Thursday upheld a ruling by Los Angeles Superior Court Judge Peter Espinoza in January that Polanski had to return to the US if he wanted his case resolved. Espinoza claimed he was acting to protect "the dignity of the court" and that returning Polanski to the US would be a "deterrent" against others who might consider flight.

The political character of the various rulings is underscored by the fact that the courts have all but acknowledged the illegality of Rittenband's actions in 1977-78.

In December the same Second Court of Appeal, in denying another motion from Polanski's lawyers, noted that if statements by former Los Angeles Deputy District Attorney David Wells—who admitted in a documentary film that he had improperly conferred with and pressured Rittenband—were true, then the

judge had “imposed an improper punishment, said he would renege on the punishment agreement, threatened to sentence Polanski to prison with unlawful conditions for his release, and engaged in improper conduct with the media and others not involved in the matter.”

The court further noted, “These allegations—and they must be termed ‘allegations’ because no court has ever held an evidentiary hearing and made factual findings concerning their veracity—are in many cases supported by considerable evidence, including declarations from both prosecutor Gunson and defense counsel Dalton.... 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.”

The court rejected Polanski’s plea at the time, but noted, “We remain deeply concerned that these allegations of misconduct have not been addressed by a court equipped to take evidence and make factual determinations as to the events in 1977 and 1978. Fundamental fairness and justice in our criminal justice system are far more important than the conviction and sentence of any one individual.... Polanski’s allegations urgently require full exploration and then, if indicated, curative action for the abuses alleged here.”

Polanski’s legal team had requested the appointment of a special counsel to look into the claims of official misconduct. They had earlier argued that such a counsel might be necessary if the appeals court found the Los Angeles district attorney’s office, involved in the alleged misconduct, to have a conflict of interest.

In an April 6 filing, Chad Hummel and Bart Dalton, acting for Polanski, argued, according to the *New York Times*, “that prosecutors were using their insistence on Mr. Polanski’s return to block exposure of conduct that involved both Judge Laurence J. Rittenband, who originally handled the case and is now dead, and members of the district attorney’s office.

“As the district attorney is undoubtedly counting on,’ the reply brief said, Mr. Polanski would ‘most likely waive’ his right to any extended examination of his past treatment, were he to return, in order to avoid further expense and possible incarceration while the

case is untangled.”

The Los Angeles district attorney’s office, presided over by Steve Cooley, currently running for the Republican nomination for California attorney general, has simply stonewalled the allegations of serious misconduct, including by its former members.

Polanski’s arrest in Switzerland, the US efforts to extradite him, and the continued, strenuous attempts by Los Angeles authorities to jail him have been cynical and politically-motivated. One of Polanski’s lawyers noted last July in an appeal, “There is no reported case like it. It has lasted 30 years and has been infected from the outset by extraordinary misconduct.”

While war criminals walk free in Washington and elsewhere, and thugs in blue operate with impunity in the working class neighborhoods of Los Angeles, the population is told that “justice must be done” in the case of the 76-year-old Polish-born filmmaker.



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