Swiss authorities decide against extraditing Roman Polanski

David Walsh
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Swiss government officials announced Monday that 76-year-old filmmaker Roman Polanski would not be extradited to the US. Polanski was arrested September 26, 2009, on his arrival in Zurich to attend a film festival. He has been under house arrest at his chalet in Gstaad since December 4, 2009, after depositing 4.5 million Swiss francs (US$4.2 million) in bail.

The Swiss decision is a blow to the Los Angeles District Attorney's office and the Obama administration's Justice Department, whose vindictive, politically-motivated campaign against Polanski has now come apart.

American authorities were seeking to extradite Polanski in connection with his guilty plea to having sex with an under-age teenage girl in Los Angeles in 1977. The film director spent 42 days in detention in the psychiatric unit of a California state prison, but when the judge in the case threatened to renege on a plea-bargain agreement and "throw the book" at the filmmaker, Polanski left the US and went into exile in Europe.

The sudden 2009 arrest of Polanski, who had visited Switzerland for decades without hindrance and owned a chalet there, and the threat to extradite him were bound up with sordid political motives.

Last year, the Swiss authorities were anxious to curry favor with the US government, which was demanding information on more than 4,000 bank accounts, allegedly tied to tax evasion, held at banking giant UBS. Coincidentally or not, the Swiss parliament last month approved a treaty that resolved the disclosure issue and, as *Bloomberg Businessweek* noted, ended "a two-year legal battle that threatened the American business of Switzerland's largest bank."

The decision not to extradite Polanski was certainly taken at the highest levels of the Swiss state. The announcement Monday was made by Eveline Widmer-Schlumpf, the Swiss justice minister, who also serves as one of seven members of the ruling Swiss Federal Council. Widmer-Schlumpf formerly belonged to the right-wing, anti-immigrant Swiss People's Party.

US authorities had no real legal leg to stand on in their effort against Polanski. A central issue in the extradition proceeding was whether or not Polanski had already served his sentence in 1977 for the crime of having sex with a minor. Under a US-Swiss extradition treaty, an individual may only be extradited if he or she faces at least six months in prison.

Swiss authorities, explained Widmer-Schlumpf, had requested the transcript of testimony given in January 2010 by Roger Gunson, the prosecutor in charge of the Polanski case in 1977. Gunson reportedly testified that in September of that year Judge Laurence Rittenband had assured the prosecution and defense in the case that the 42 days Polanski spent in detention "represented the whole term of imprisonment he was condemned to." (Press statement from the Swiss Federal Council.)

The US Justice Department refused the Swiss request for the document, insisting that Gunson's statement remain secret. "In these circumstances," explained the Swiss government press statement, "it is not possible to exclude with the necessary certainty that Roman Polanski has already served the sentence he was condemned to at the time and that the extradition request is undermined by a serious fault. Considering the persisting doubts concerning the presentation of the facts of the case, the request [for extradition] has to be rejected."

Widmer-Schlumpf also pointed to the obvious fact that Polanski had been traveling to Switzerland for years and that the US had made no effort to extradite him, suggesting that the American action in 2009 was taken in contravention of the "principle of good faith." The justice minister did not refer to the widely circulated report that it was the Swiss authorities themselves who tipped off US officials that Polanski would be in Zurich in late September.

The Swiss justice ministry also cited the wishes of the victim in the case, Samantha Geimer, that the case against Polanski not be pursued.

The Swiss government could hardly have been unaware either of the substantial and well-substantiated accusations of misconduct against Judge Rittenband, although its statement made no reference to them. Polanski's lawyers recently attempted, without success, to get their client sentenced in absentia in Los Angeles and gathered powerful evidence of Rittenband's outrageous behavior in 1977, some of it first brought to light in the 2008 documentary, *Roman Polanski: Wanted and Desired*, directed by Marina Zenovich.

Addicted to the limelight and determined to prove how tough he could be, Rittenband, advised by a prosecutor with no

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connection to the case, sent Polanski to Chino State Prison for a psychiatric evaluation. This was the only way in which he could incarcerate Polanski without the latter having the opportunity to appeal the decision. Both prosecutor Gunson and defense attorney Douglas Dalton argued that it was illegal to use diagnostic detention as punishment for a crime. Rittenband allegedly ignored their arguments.

Because Dalton was seeking a one-year stay on the detention so that Polanski could complete a film, the judge then proposed a charade to both the prosecution and defense. Rittenband agreed to issue a series of 90-day stays of the detention sentencing, but insisted that in court, he, the defense and prosecution would pretend that no such decision had been reached behind closed doors, so the judge could pretend to arrive at a decision he had already made. This would allow him to save face in front of the news media.

Rittenband also asked that the filmmaker waive his right to any future deportation hearing, in which Polanski could challenge an attempt to expel him from the US. As the WSWS noted, in a review of *Wanted and Desired*, "Rittenband had no jurisdiction in matters of deportation, and his attempt to deprive Polanski of his right to a deportation hearing was yet another example of misconduct."

Rittenband's behavior alone should have resulted in Polanski's case being thrown out long ago. This is not a matter of "legal technicalities," but of violations of basic democratic rights intimately connected to the character of the case itself.

The Polanski incident was never about "child rape," pedophilia or any of the issues that hysterics in the media choose to throw up. Nor has it been for the past 10 months about "completing justice" or punishing a rich celebrity who thinks he can get away with murder.

The campaign against Polanski became a useful rallying point for a coalition of liberal editors and columnists, feminists and extreme right-wingers. This unholy alliance, including the *New York Times*, *Salon*, the *Nation*…and Rush Limbaugh, Glenn Beck and Pat Buchanan, uses inflammatory, fake populist arguments as a means of whipping up the most backward layers of the American population with hot-button appeals to the "protection of children against predators." The targets of this lynch mob are "Hollywood types," artists, intellectuals and non-conformists of every variety. The anti-Polanski effort has undertones of xenophobia and anti-Semitism, along with old-fashioned American Puritanism.

To feminists and liberals, blind to the critical social and class questions, the building up of the power of the American state as it pursued Polanski was nothing to the possibility of wreaking revenge on him for his actions in 1977. That the episode had taken place 33 years ago, that the woman involved wanted nothing to do with further legal action, that the individual charged was 76 and had undergone severe trauma in his life—none of this was of any interest to the new morality squad.

Their agenda squared perfectly with the reactionary self-promotion of Los Angeles District Attorney Steve Cooley, in the running for the Republican candidacy for California attorney general this year, and the efforts of the Obama Justice Department, determined to prove itself as indifferent to democratic rights as its predecessor.

In any event, the practical Swiss apparently decided—having settled the UBS issue—that any advantage to be gained by handing Polanski over to the US was more than compensated for by avoiding a public uproar in Europe and the possibility that the filmmaker's case would end in a debacle in Los Angeles, reflecting badly on them. There may be as well in the decision a sign of the further weakening of the international standing of the US and, since last September, of the Obama administration itself.

In her comments, Widmer-Schlumpf suggested blandly, "The US doesn't have a reason to rethink its relationship with us. Wherever we've had duties, we've fulfilled them."

In early May, Polanski issued his first public statement since the arrest in Zurich, repeatedly insisting that he could "no longer remain silent." The Franco-Polish filmmaker explained, "I have had my share of dramas and joys, as we all have, and I am not going to try to ask you to pity my lot in life. I ask only to be treated fairly like anyone else."

He went on: "I can no longer remain silent because the United States continues to demand my extradition more to serve me on a platter to the media of the world than to pronounce a judgment concerning which an agreement was reached 33 years ago."

Polanski expressed the hope "that Switzerland will recognize that there are no grounds for extradition, and that I shall be able to find peace, be reunited with my family, and live in freedom in my native land." He has apparently been granted that much.

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