

Attorney Steven Donziger sentenced to six months for contempt of court in vindictive case brought by Chevron

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Steven Donziger, an attorney who won a \$9.5 billion lawsuit in Ecuador against Chevron in 2011 on behalf of 30,000 farmers and indigenous people, was sentenced on Friday to six months of imprisonment by a US court.

US District Judge Loretta Preska imposed the sentence following her ruling of guilty on six counts of criminal contempt last July, stemming from Donziger's refusal to turn over his computer and other electronic devices to the court in relation to a case brought against him by Chevron.

In handing down the sentence, Judge Preska said, "It seems that only the proverbial two-by-four between the eyes will instill in him any respect for the law."

In August 2019, Donziger was charged with contempt and Judge Preska placed him under house arrest. He has been confined to his New York City apartment for more than two years on the grounds that he poses a flight risk.

Judge Preska's sentence came one day after an opinion by a working group of independent United Nations experts was submitted to the court by Donziger's lawyers that found his home confinement to be a violation of international human rights law.

The UN Working Group on Arbitrary Detention (WGAD) is a body of five international jurists and human rights experts appointed by the UN Human Rights Council. The WGAD analysis concluded that "this Court's extended pre-trial detention of Mr. Donziger is 'arbitrary' under international human rights standards and therefore unlawful."

The group found "very serious" violations of numerous articles of the International Covenant on Civil Political Rights along with "appalling" violations of the UN Basic Principles on the Role of Lawyers. The WGAD statement said that the remedy required by international law is "to release Mr. Steven Donziger immediately and accord him an enforceable right to compensation and other reparations."

Finally, the working group requested that the US government "ensure a full and independent investigation of

the circumstances surrounding the [case]" and engage in specified follow-up procedures.

None of this fazed Judge Preska in the slightest. The prejudicial sentencing of Donziger is the latest episode in a political vendetta against him by the US judicial system on behalf of Chevron, the oil industry and US imperialist interests in South America.

In August 2020, Donziger was disbarred by New York Appellate Judge Judith Gische for "egregious professional misconduct." At that time, Donziger said, "No doubt, the serial polluters at Chevron who have spent billions to try to demonize me are dancing in their corporate suites. But the battle is far from over. The company still faces enormous risk from its toxic legacy in Ecuador and other countries which will haunt its business operations for decades to come."

Even though federal prosecutors had refused to bring criminal contempt charges against Donziger, in an extraordinary abuse of the legal process, US District Judge Lewis Kaplan—who had investments in funds with holdings in Chevron—deputized a private law firm to pursue him for contempt of court.

Donziger has been targeted because he has waged a decades-long battle against Texaco, which was acquired by Chevron Corporation in 2001, for polluting the Amazon rainforest and contaminating the water at the Lago Agrio oil field in the Ecuadorian province of Sucumbíos.

Beginning in 1993, Donziger and a group of other lawyers brought a class-action lawsuit against Texaco, on behalf of over 30,000 farmers and indigenous people, charging that the company's oil drilling in the Amazon had resulted in massive contamination. After a visit to the region, Donziger said what he saw at the time was, "what honestly looked like an apocalyptic disaster," including children walking barefoot down oil-covered roads and jungle lakes filled with oil. Due to the work done by Donziger, the region became known as the "Amazon Chernobyl."

The class-action case was originally brought in New York City, where Texaco's headquarters were located. Since the plaintiffs were propertyless, funding for the lawsuit was provided by the Amazon Defense Coalition and others who would receive a small portion of any settlement. Following the merger, Chevron argued that Texaco had already cleaned up its operations in Lago Agrio and that its local partner Petroecuador was responsible for the remaining contamination.

Chevron then convinced the US court that the jurisdiction of the case was in Ecuador. In exchange for this arrangement, the US court exacted a promise from Chevron that it would accept the decision of the Ecuadorian courts.

When the case was moved, Donziger launched a public education campaign to inform the Ecuadorian public about the pollution in the Amazon region. Donziger argued that the indigenous people "would never get a fair trial in Ecuador if they did not illuminate what had happened to them and get public support." The details of the case and the work of Donziger are recorded in the 2009 documentary film *Crude*.

In 2011, a provincial Ecuadorian court found Chevron guilty and, following three appellate court appearances, including before the highest National Court of Justice, damages of \$9.5 billion were awarded. In order to avoid paying up, Chevron proceeded to move all of its assets out of Ecuador, forcing the plaintiffs to pursue their compensation through courts in Canada, Brazil and Argentina. In all three cases, the courts rejected Donziger's petition for confiscation of Chevron's assets.

After the legal maneuvering of the global petrochemical corporation, a counter-litigation campaign was launched against Donziger by Chevron and the US judicial system. In 2011, Chevron filed a civil RICO (Racketeer Influenced and Corrupt Organizations Act) lawsuit against Donziger in New York City and accused him of bribing an Ecuadorian judge, ghostwriting the damages judgment and "fixing" environmental studies. The federal RICO law was enacted in 1970 and originally used to pursue mafia outfits.

In 2014, Judge Kaplan ruled that the Ecuadorian class-action judgment was invalid because Donziger achieved it through "criminal" activity, including racketeering, wire fraud, money laundering, obstruction of justice, bribery, coercion, witness tampering and extortion. Kaplan also ruled that Donziger had to pay Chevron \$800,000 as part of the RICO settlement.

Judge Kaplan's case was largely based upon the testimony of Alberto Guerra, a former Ecuadorian judge, whom Chevron had relocated to the US in 2013 for "safety reasons." Guerra claimed that Donziger paid the Ecuadorian judge who ruled in favor of the plaintiffs \$500,000. In 2015, Guerra recanted in an international tribunal and said he had

lied about the bribery; however, subsequent appeals court hearings have refused to consider his admission and upheld the core of Kaplan's ruling against Donziger.

It was also during the appeals process that Kaplan demanded that Donziger submit his computer, phones and other electronic devices to Chevron so it could search for liquid assets. Donziger refused to comply and Kaplan responded with the contempt charges.

In predictable fashion, the *Wall Street Journal* hailed the imprisonment and violation of Donziger's rights as deserving for his "attempted looting of Chevron for spurious environmental crimes in Ecuador" which "ranks as among the biggest legal scams in history." However, Donziger has massive support internationally for his courageous defense of the rights of Ecuadorians and stand against one of the most powerful corporations in the world.

Rock musician and political activist Roger Waters has consistently spoken out against the persecution of Donziger and praised his fight for the rights of the indigenous people of Ecuador. Waters spoke at a rally outside of the federal courthouse in New York City on Friday and denounced Judge Preska for her guilty verdict and demanded that Donziger be released immediately.

Last March, Donziger condemned the criminal case "by a Chevron-connected judge and prosecuted by a Chevron-connected lawyer? It's just wrong. This is all part of a plan concocted by Chevron to dismantle my life. They want to do this to avoid paying up and to turn me into a weapon of intimidation against the whole legal profession."



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