



January 26, 2012

FLASH

The Ninth Circuit Court of Appeal ruled at 8:20 this morning (you can read decision [here](#)) in the case of Rob McGowan. While the decision is quite complicated, and doesn't free Rob immediately, it is an incredible victory, and presents the opportunity to get Rob home in the near future.

In a nutshell, the Court denied Rob's appeal on the conviction, saying the appeal should be brought as an ineffective assistance of counsel claim under 28 U.S.C. § 2255 before the trial court on remand.

The Court also held that Rob's Due Process had been violated when the District Court which sentenced him relied on unreliable, unsubstantiated allegations in imposing his sentence. Therefore, the Court vacated Rob's sentence and reassigned a new judge reasoning Judge Wright's "substantial difficulty in putting out of his . . . mind previously-expressed views . . . could undermine the appearance of justice in these proceedings."

So, at the moment Rob is not under any sentence. The Ninth Circuit Court did not grant bail, but said a bail motion should be brought before the new District Court judge. Given that Rob was out pending sentencing before, we are hopeful that he will be released soon.