

Honorable Sandra Lynch, Chief Judge
Court Of Appeals For The First Circuit

Honorable Mark Wolf, Chief Judge
United States District Court
For The District Of Massachusetts

Honorable Ryan Zobel, District Court Judge
For The District Of Massachusetts

John J. Moakley Courthouse
One Courthouse Way
Boston, Massachusetts 02210

December 14, 2009

Dear Judge Lynch, Judge Wolf and Judge Zobel:

After Two years being housed at Federal Medical Devens as a result of my being categorized as a care level 3 because of the pacemaker I must wear for the rest of my life and one year subsequent to my two illegal life sentences being reinstated, I was told on November 12, 2009 to pack up all of my belongings including all the work product for my pro se appeal (09-1559). On November 13, just prior to being placed on a transport bus, I was informed that I was being transported to Tucson Arizona. To say I was stunned is an understatement.

No one at FMC Devens had any explanation as to why I was being transferred. Unit team Calabro at FMC Devens told my stepfather, Jack Wallace, that my transfer was a result of my two (illegal) life sentences being reinstated. However, my two illegal life sentences had been reinstated in October of 2008, more than a year prior to this sudden move.

This sudden move also conflicts with what I had been told by my unit team in December of 2008, that my reinstated life sentences would not effect my stay at FMC Devens since Devens is an administrative facility that houses all custody levels. In fact, at orientation when one first arrives at FMC Devens the warden makes the announcement that there are all custody levels housed at FMC Devens, from pretrial to life sentences, explaining that Devens is an administrative security level facility.

This is further confirmed as FMC Devens is listed as an administrative FMC in the "BOP: Facility Locator", and the "BOP Program Statement" lists administrative facilities as housing all custody levels and all total points totals.

Further, from February 7, 2008 until my sudden unexplained and, quite frankly, under the circumstances of the status of my appeal, utterly suspicious transfer, I had been housed in a dormitory unit and had been told by my unit counselor, Larkin, that even with my newly reinstated (illegal) life sentences I would not have to be moved to a unit that had two man cells with locking doors identical to a penitentiary setting.

In the two years at FMC Devens, other than the mailrooms's practice of delaying the delivery of my legal mail on a regular basis, I had no problems whatsoever with any of the staff and was living in peace without the worries of being killed in a penitentiary setting since even one hard blow to my pacemaker is a virtual death sentence to me.

I am now being sent to another penitentiary...

I have gleaned from the unit team here at MDC Brooklyn that I am on a "Transfer code 335" a "Transfer for Hospitalization and Treatment: Transfer between BOP Medical Referral Centers for continued medical/physical or psychiatric treatment..." The problem with this particular transfer is that nowhere is there any listing for a medical center anywhere in Arizona, there are only five in the entire country and I was in the one and only medical center in my region. This transfer is putting my life in danger.

Tucson is 2700 miles away from Boston and my remaining family. My stepfather, Jack Wallace, is 83 years old, has many medical problems and, as it is now, has a very difficult and uncomfortable time traveling to visit me at FMC Devens, a move to Tucson will mean a good possibility that we will never see each other again. What Happened to keeping prisoners within 500miles of their home? What happened to maintaining community ties? I know no one in Arizona.

This transfer, just over two weeks prior to the government's December 1, 2009 scheduled due date for its Opposition/Response to my opening appeal brief and separation from all of my law research product for this appeal until sometime after I arrive in Arizona in January of 2010 has all the appearances of a move to impede my pro se defense and the filing of my reply brief. This is especially so since MDC Brooklyn limits my use of the law library to 8 hours per week which includes the extended time allotted for pro se litigants, never mind the fact that MDC Brooklyn does not have the electronic law library that I had at Devens that was available a maximum of 8 hours a day six days a week.

Add to the above the fact that the holiday season is upon us thus all BOP transfers are slowed to a snail's pace, I am told that I won't leave here until mid January. After my stay here I will be sent to Oklahoma where I will again sit in limbo without any of my appeal work product.

Even with the government being granted a second 6 week extension until January 11, 2010, and I have asked for another extension for a total of 6 weeks to respond, with provision for further tolling of time should I be separated from my appeal work product, I will be hard pressed to file my reply brief under the conditions I have been placed by this bogus "Medical Transfer" to a non medical facility.

I know you all have heard this before, but until my dying breath, I will maintain my innocence. I am totally innocent of all these charges against me and now that I have uncovered evidence that proves my innocence and, until the government chose to destroy the evidence in this case in 2005 and 2006, would prove the actual identity of the real bomb builder, the government sends me on "diesel therapy" to keep me from exposing the truth in this case.

Is this the way the government truly wants to fight this case against this pro se litigant that has finally discovered the mistakes or malfeasance of a former prosecutor? The stark reality is the fact that I finally caught the government withholding valuable exculpatory evidence from my trial counsel and now that I have taken this discovery public I must suffer not only from a bogus trial and an illegal sentence, I must now pay again in uncomfortable conditions with no medical attention, lose my chance to adequately participate in my appeal and I will not see my family over the holidays and may never see my step father again.

I write this to all of you in the hopes that one of you will request the cancellation of this bogus medical transfer and have me sent back to FMC Devens so that I may continue to see my family, plead my case and be available to investigators both federal and state since there is a recent interest in re-investigating this case to find the truth in this case and to bring to justice the actual bomb builder. Of course there is the minor detail that I must continue the care for my heart condition that I will have for the rest of my life.

How much more am I, an innocent man, supposed to suffer, how much more must the victims of this crime not be able to put this case to rest until those willing to find the truth instead of fighting to keep the truth from being known do the right thing?

I have discovered many new roads that lead to the truth, my innocence and the guilt of the actual criminal in this case, I will not stop until the truth is known. Why is the current U.S. Attorney's office fighting so hard to cover for a former prosecutor that hid evidence from my counsel, the courts, the public and the victims of this crime, the truth that the former prosecutor hoped I would never find?

Respectfully submitted,

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