

Wolf Sets Jail Time Record for Refusing to Comply with Grand Jury Subpoena

Freelancer could remain in jail until July 2007

Freelance journalist and self-proclaimed anarchist Josh Wolf remains in jail after a judge denied his latest attempt at freedom, and has become the longest-jailed journalist for refusing to comply with a subpoena.

Wolf has been imprisoned since Sept. 22, 2006, and on Feb. 6, 2007, he passed Vanessa Leggett's prior record for time in prison for refusing to testify before a grand jury. (For more on Leggett's imprisonment, see "Journalists' Records Subpoenaed in Separate Cases" in the Fall 2001 issue of the *Silha Bulletin* and "Vanessa Leggett Released from Jail" in the Winter 2002 issue.) Wolf could stay there until July 2007 when the grand jury term expires.

Wolf's latest legal setback occurred on January 30 when Federal District Judge William Alsup denied Wolf's motion arguing for his release on the grounds that the civil contempt imprisonment has become a criminal punishment and because he will never surrender the videotape the government is seeking. Alsup subsequently ordered mediation between Wolf and the government before Federal Magistrate Judge Joseph Spero to try to resolve this matter.

Wolf was jailed for civil contempt after refusing to comply with a federal grand jury subpoena seeking a videotape he made at a July 2005 protest that ended with a police officer being struck in the head and the attempted burning of a police car. Federal prosecutors claim they want the tape to identify the perpetrators of the crimes, and Wolf has refused to comply with the subpoena. Alsup found Wolf in contempt for disobeying the subpoena in 2006, and Wolf has been in jail since the U.S. Court of Appeals for the Ninth Circuit denied his appeal of Alsup's order. (See "Blogger Ordered Back to Jail for Refusal to Disclose Videotapes" in the Fall 2006 issue of the *Silha Bulletin*; "Court of Appeals Orders Freelance Journalist To Hand Over Videotape" in the Summer 2006 issue of the *Silha Bulletin*.)

The government disputed Wolf's contention that he will never comply with the subpoena, claiming Wolf offered to turn over the tape if he did not have to identify anyone on it or testify before the grand jury. However, in an affidavit filed with the court, Wolf's lawyer, Martin Garbus, countered the government's contention, stating that the proposal was simply something he would

recommend to Wolf if the government accepted it. On Wolf's Web site joshwolf.net, his mother claims that Alsup made his ruling before viewing Garbus' affidavit. Alsup's opinion was only one paragraph in length and stated the imprisonment seemed to be having the intended effect of having Wolf consider turning over the tape.

Wolf also argued that he should be released because the investigation into the attempted arson has stalled. On January 8, the government dropped charges against Gabriel Meyers, the only person being prosecuted in connection with the crimes Wolf allegedly videotaped. The *San Francisco Chronicle* quoted Assistant U.S. Attorney Jeffrey Finigan stating that the dismissal of the charges against Meyers indicates that Wolf's tape may be even more necessary for the prosecution of anyone in connection with the crimes from the protest.

On February 6, the Free Josh Wolf Coalition held a press conference at the San Francisco City Hall in recognition of his 169 th day in jail. A benefit designed to raise funds for his legal defense and raise awareness of his jailing followed the press conference.

Despite being imprisoned, Wolf has still been able to make statements to the public. In a February 9 interview with *Democracy Now*, a nationally syndicated radio news program, Wolf questioned the government's motives for seeking his unused footage. Wolf claimed the government hopes to identify the individuals in the video as part of a plan to eliminate protests by intimidating dissidents. Wolf also said he does not regret videotaping the protest but that he might have destroyed the unused footage had he known the FBI was going to subpoena it. Finally, Wolf expressed fear that his imprisonment may discourage individuals from speaking out against the government but hoped that he might "wake people up" to resist what he views as an "impending police state."

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