

COURT DENIES SCOTT BLOCH & DOJ COLLUSIVE ATTEMPT TO WITHDRAW PLEA

✘ As you will recall, former former Bush/Cheney Administration Special Counsel Scott Bloch destroyed evidence by wiping government computers clean, lied to Congress about it and conspired with the DOJ to minimize the conduct and slough it off with a sweetheart plea deal. Then, outrageously, when the court indicated it was inclined to impose the mandatory minimum month in jail, which was *mandated* by the statute Bloch pled guilty to, Bloch and the DOJ conspired to get the plea, which had already been accepted and entered by the court, withdrawn.

When Bloch and DOJ both worked together to get the plea withdrawn, and frustrate justice, the egregious nature of the attempt was documented here in a fully argued and supported post published on Tuesday March 1, 2011. Subsequent to that post, the court also found questions with the attempt to withdraw the plea and ordered Bloch to file a reply supporting the attempt.

Seeing the specious nature of Bloch's reply filed on March 3, 2011, the Emptywheel blog got involved and initiated a formal filing with the court. We combined much of the material from the previous blog post on March 1 with new argument directly responsive to Bloch's Reply, and additional general argument, into a formal sentencing recommendation and filed it with the court. The document was lodged on March 4.

Late last night, after consideration of the various pleadings related to the attempt to withdraw Bloch's plea, the court filed its decision on PACER. Scott Bloch's motion to withdraw from his plea, despite the collusive

help from the DOJ, is **DENIED!**

For all of the foregoing reasons, the court finds that Defendant, at the time he pled guilty to a violation of 2 U.S.C. § 192, was well aware that he could have been sentenced to a period of incarceration of up to one year. His assertion, through his affidavit, that he would not have pled guilty had he “been informed” that he would not receive probation is, simply put, not entitled to credence. This court—like the Circuit, when confronted with a comparable contradiction between the defendant’s answers under oath during the Rule 11 colloquy and the affidavit in support of his motion – finds that **“[Defendant’s] argument – if not his affidavit – amounts to a claim that the defect in the taking of the plea consisted of his committing perjury, when, under oath, he acknowledged the truth of the factual recitals in the plea agreement and in the government’s proffer.** Lying to a court is not a ‘fair and just reason,’ Fed.R.Crim.P. 11(d)(2)(B), for allowing a plea to be withdrawn.” (emphasis added)

The entire ruling by the court is 20 pages long and takes apart every argument Bloch makes limb by limb. As it should have been. Perhaps the best line of Judge Robinson’s decision, and a point we argued strongly, is:

Confidence in the fair and orderly administration of justice is undermined by the suggestion that the court should participate in a process by which a sentence is first determined by Defendant and the government, and then an offense expected to guarantee such sentence is alleged.

Boy, the court sure got that right. Not to

mention that confidence in fair and honest government is undermined when the DOJ is willing to not prosecute and/or minimize clear crimes committed by other Executive Branch officers. They tried to soft walk Scott Bloch out of this, and it is still awfully small punishment considering Bloch's crimes, but at least they did not get away with further obfuscation and frustration of justice. Now let's get the Obama DOJ to get some more prosecutions for all the other egregious Executive Branch crimes of the previous administration going. It is about time.

Bloch's sentencing is set for this afternoon at 2:30 pm at the E. Barrett Prettyman Federal Courthouse.