

DOJ'S TWISTED NOTION OF RULE OF LAW IS POISONING OUR COUNTRY

Yesterday, Tim DeChristopher was sentenced to 2 years and a \$10,000 fine for his successful efforts to expose an improper BLM drilling auction.

At his hearing, DeChristopher rebutted the prosecution's claim that he needed to face a tough sentence to uphold rule of law.

Mr. Huber also makes grand assumptions about my level of respect for the rule of law. The government claims a long prison sentence is necessary to counteract the political statements I've made and promote a respect for the law.

[snip]

This is really the heart of what this case is about. The rule of law is dependent upon a government that is willing to abide by the law. Disrespect for the rule of law begins when the government believes itself and its corporate sponsors to be above the law.

Mr. Huber claims that the seriousness of my offense was that I "obstructed lawful government proceedings." But the auction in question was not a lawful proceeding. I know you've heard another case about some of the irregularities for which the auction was overturned. But that case did not involve the BLM's blatant violation of Secretarial Order 3226, which was a law that went into effect in 2001 and required the BLM to weigh the impacts on climate change for all its major decisions, particularly resource development. A federal judge in Montana

ruled last year that the BLM was in constant violation of this law throughout the Bush administration. In all the proceedings and debates about this auction, no apologist for the government or the BLM has ever even tried to claim that the BLM followed this law. In both the December 2008 auction and the creation of the Resource Management Plan on which this auction was based, the BLM did not even attempt to follow this law.

[snip]

I'm not saying any of this to ask you for mercy, but to ask you to join me. If you side with Mr. Huber and believe that your role is to discourage citizens from holding their government accountable, then you should follow his recommendations and lock me away. I certainly don't want that. I have no desire to go to prison, and any assertion that I want to be even a temporary martyr is false. I want you to join me in standing up for the right and responsibility of citizens to challenge their government. I want you to join me in valuing this country's rich history of nonviolent civil disobedience.

And in response, of course, the judge did lock DeChristopher away. It's a farce given the facts of the case, but consider how it looks when, as DeChristopher invites, you consider DOJ's other efforts to "uphold rule of law."

Compare the damage—if any—DeChristopher's actions did to that which BP has done. As bmaz noted in April, a year after the Macondo explosion, no one has yet been held accountable for 11 deaths, to say nothing of the physical damage to the Gulf. And as Jason Leopold recently reported, our unwillingness to heed whistleblowers has led to more damage from BP. Part of the problem, of course, is the

difficulty finding a judge without a financial interest in BP.

Or compare DeChristopher's punishment with that of Massey energy. DOJ has records that Massey faked safety records for the Big Branch mine, yet over a year after 29 people were killed, no one has been held responsible. Don Blankenship not only got to retire with \$12 million, he continues to get paid by the company as a "consultant."

Or compare DeChristopher's punishment with that of Angelo Mozilo or Lloyd Blankfein. Between them, they had a huge role in causing Americans trillions of dollars in preventable losses. After fining Mozilo \$67 million he won't pay personally, DOJ judged that Mozilo's actions did not constitute criminal wrongdoing, so he remains free to enjoy his corruptly gained riches. And in spite of the apparent fact that Blankfein lied to Congress last year about the ways Goldman crashed the economy, DOJ has only now begun to make motions of investigating his lies.

And consider the others who tried to expose government wrong-doing. The government spent three years trying to prosecute Thomas Drake for whistleblowing—apparently because they suspected he leaked details of the illegal wiretap program. And it is currently pursuing a strategy that may land James Risen in prison—Risen says, in retaliation for his reporting on the illegal wiretap program. Yet DOJ went to great lengths to avoid holding anyone responsible for actually doing the illegal wiretapping.

We're about to try Abd al Rahim al-Nashiri for his alleged role in the USS Cole bombing, which is fine. But the government not only hasn't punished his torturers, but it hasn't punished those who destroyed exonerating evidence of his torture.

DOJ has apparently given up any pretense of supporting the rule of law. The law is a tool used to punish political protest and exposure of

wrong-doing. And it is a tool to protect the corporations whose crimes do far more damage to this country.

John Robb recently predicted that after a Soviet-style collapse, our legal system will collapse.

What happens to the legal system when the US suffers a Soviet style collapse?

Answer: It will rapidly decay.

Here's a simple formula for this (it works for both legal systems and government bureaucracies):

Low legitimacy + slashed operating budgets = rampant corruption

Regardless of any decay in the legal system, business will still be conducted. Small disputes will be resolved through the existing system, with graft tipping the scales or speeding the outcome. Large disputes involving substantial wealth transfer will be something else entirely. These disputes will be resolved through the ability of one party or the other to apply the threat of (or actual) violence to the negotiation process.

These pressures won't only be the result of counterparties that have access or control the large mafias/gangs/militias (or corporate militaries) that will spring up during economic collapse (far larger than we've seen the US to date).

Threats will also be mounted by government/defense/security officials that use their government sanctioned command of violence (police, SWAT, military units, etc.) as a means to personal enrichment.

But (as his suggestion about the impunity people like Mozilo and Blankfein were given shows) he gets the chronology wrong. Aside from the bribed

BP judges, it's not corruption per se that is collapsing our judicial system. It's the apparently conscious choice on the part of the government to void the concept of rule of law, the choice to treat political speech and whistleblowing as a much greater crime than the corporate crimes that have devastated our country.

I think DeChristopher is right: seeing his sentence isn't going to scare anyone into cowing in the face of such a capricious legal system. Rather, it makes it clear what the stakes are.