A RULING ON THE FSA MOTION FOR REDUCTION OF SENTENCE

I filed a motion for reduction of sentence pursuant to the First Step Act of 2018, (FSA) under 18 USC 3582(c), along with a 25 page supporting brief. The government responded. I filed a 25 page reply, together with a proposed order.

District Judge Stephen P. Friot denied the motion by order filed as docket # 700 on 7-26-21.

Let me summarize the main issues:

1) The government knowingly presented perjured testimony, which it stubbornly refuses to acknowledge or correct. Rather, it gives defendants the "silent treatment" in total defiance of the ethical obligations of all lawyers, and prosecutors particularly.

2) The District Court (Stephen P. Friot) stalled for time, then denied my unopposed motion to the trial transcripts in time for sentencing on utterly specious grounds. Therefore both Friot and the government were left with the ability to maintain "plausible deniability" of intentionally sentencing the defendants on the basis of a materially false record. All lawyers, and especially prosecutors, are ethically bound to correct a false criminal record, even if the falsehoods were made without specific intent.

3) The government presented absolutely no evidence of an element of Count 4, as to Oscar Stilley. Because of the Court's refusal to order the transcript in a timely manner, Stilley has for 10 years been unable to either 1) competently appeal his conviction, or 2) obtain redress through some other means.

4) The government abandoned the indictment wholesale. The government tacitly admits that it has absolutely no evidence that Stilley (or Lindsey Kent Springer either, for that matter) is guilty of any of the counts of conviction. Once again Friot stomped out Stilley's ability to prove these facts either at the trial court or on appeal.

5) Friot struck the most time sensitive pleadings, Stilley's motion for judgment as a matter of law and for new trial, and Springer's motion for judgment as a matter of law. This was done *sua sponte*, which is to say "on the court's own motion." The problem with this thinking is that *Friot himself stated*, in decisions and orders both before and after this travesty, that such an act violates the constitution. If he wants to act *sua sponte*, he has to give notice and allow the defendant an opportunity to be heard prior to the decision. This he did not do - precisely because he didn't honestly believe his decision was legally supportable.

6) Stilley was civilly, criminally, and ethically duty bound to do the things for which he stands convicted and sentenced to 15 years in federal prison. Friot knows that full well, which is why he has evaded his ethical obligation and sworn duty to rule on Stilley's

proper and duly filed pleadings.

7) Friot is a habitual offender, with respect to neglecting and refusing to rule on meritorious legal claims by despised criminal defendants. I proved beyond a shadow of a doubt that this is precisely how Friot put Skoshi Thedford Farr in federal prison, in defiance of the constitutional prohibition on double jeopardy. Plus he smacked her with an additional 3 months in prison, apparently as punishment for the respectful claim and exercise of her constitutional rights.

8) The government flagrantly violated the rule requiring them to return their alleged indictment in open court. I challenged them to prove they didn't "phony it up" altogether. They maintain silence because they know they have no evidence that the indictment is genuine and bona fide.

9) I did that because the next thing I wanted to do, and did, was to issue the following challenge. If you like this indictment so much, why didn't you stick with it? I can answer that question. If they stuck with the indictment, and their original theory of prosecution, they had to admit that neither defendant could possibly be guilty. They switched theories every time the old theory was destroyed. Thus both defendants were denied their right to a grand jury indictment. They know I'm trying to make them talk, so I can paint them into a corner and cut off their way of escape.

10) The oath of an Oklahoma attorney contains the following provision:

> **that you will do no falsehood or consent that any be done in court, and if you know of any <u>you will give knowledge thereof to the judges of the court</u>, or some one of them, *that it may be reformed*;**
> (Emphasis added)

Numerous ethical rules in essence require the same thing. Recent US Supreme Court caselaw requires the same thing. Fundamentally, prosecutors can't knowingly leave someone in prison on the basis of material false evidence.

11) I tried to get Friot to order the government to admit or deny my factual allegations, made on oath or on the basis of citation to the official record. O'Reilly refuses to reform the record, and Friot refuses to order it.

12) O'Reilly lied through his teeth about whether or not Stilley is an electronic filer. He is hiding Lindsey Kent Springer out, so we can't work together. That's why he lied about my electronic filing privileges. The same order that required the clerk to maintain my electronic filing privileges requires the clerk to maintain Springer's electronic filing privileges. If Springer has electronic filing privileges, I'll see his email address and be able to communicate with him. Therefore O'Reilly lied about my filing status, and

> furthermore served Springer at an address that he knows full well to be false and fraudulent. He "served" him at a DOJ-FBOP address. I'd bet money they toss that mail straight in the garbage. O'Reilly "served" of our bitter adversary, a subsidiary of the agency that fraudulently put both of us in prison, and claims that constitutes service ON SPRINGER. What a shameless, malicious lie! There is zero chance this was accidental or done in good faith. O'Reilly doesn't believe his own arguments. That's why he crushes his adversaries through lawless and corrupt tactics.

O'Reilly cited exactly one published case from the 10th Circuit - which by his own admission was favorable to me. He cited cases from other circuits (often unpublished)

Judge Stephen P. Friot denied the motion, but that's not the real story. His theory is that a motion under 18 USC 3582(c) is not a proper vehicle for a challenge to a conviction or sentence. That's beside the point.

Look at my proposed order. I asked Friot to get an accurate record, and then (and only then) rule on the motion. I admit that I can't find a decision (binding or otherwise) saying that courts can reduce a sentence on the basis of errors in the judgment or sentence.

If the 10th Circuit would rule as other courts have done, they would uphold the decision. That's not the point. The point is that assuming the truth of that legal premise, the ***same result*** would obtain after reforming the record in this case, so that it conforms to the truth.

I attacked and destroyed a massive percentage of the government's case. I left them without a fig leaf to cover the shame of their lies. Here's what Friot had to say about that, at the conclusion of his order.

> Mr. Stilley's arguments challenge his conviction and sentence and thus do not constitute extraordinary and compelling reasons for a reduction of his sentence under §3582(c)(1)(A)(i). Moreover, the court cannot but note that nothing has transpired, and ***nothing has been presented to the court***, which would soften the court's assessment of Mr. Stilley as articulated eleven years ago at sentencing (doc. no. 403):
>
> > I have tried to find even a thin strand of truth or integrity to your conduct or your way of life. It is not there. Not even a speck. There is not even a plausible basis upon which you might have deluded yourself into thinking that you are anything but complete frauds and predators. Your scams have cheated the United States. And that is a serious matter in and of itself. But the United States can print money. If anyone ever had any lingering doubt as to whether you are frauds and predators, that doubt would be removed by the fact that the two of you have also merciless[ly] fleeced some very vulnerable people. You are predators, pure and simple.
> > (Emphasis added)

In so doing both O'Reilly and Friot telegraph a total lack of confidence in the government's case. Based on the government's theory and Friot's decision, reforming the record to conform to the truth will result in the same final outcome. Let me break this down and interpret it for you.

In the first sentence he says, in effect, that no matter how erroneous his conviction and sentence may be, that is not the basis for a reduction under the First Step Act. That cannot possibly constitute an "extraordinary and compelling reason."

That being the case, why the hostility to getting an honest and accurate record? Before I went to prison, Friot acknowledged that sending me to prison prior to appeal would affect my ability to litigate, and said he ameliorate that to the extent that he reasonably could. See page 16 of the Reply brief. When I reminded him of his promise, and asked for an accurate record upon which to rule, he turned me down.

Why so? It can't possibly because of any effect on this case. He's already said, in so many words, that no matter how obviously wrong his judgment and commitment and sentence may be, that doesn't matter. I can't get the slightest relief upon the strongest proof of such matters, pursuant to the First Step Act.

What he's really saying is that he's wrong on the facts, repeatedly and egregiously, yet he will do absolutely nothing to correct the false record that he was so instrumental in constructing. Correcting the record may be irrelevant now, but it be far from irrelevant on a motion under 28 USC 2255. That's why Friot is hostile to an honest record. It has nothing to do with ***what happens now.*** It has everything to do with ***what comes next***.

Friot does not want to be bothered by the facts. Incontrovertible evidence that he was wrong, repeatedly, on key issues upon which he sentenced me severely, have no impact whatsoever upon his opinion of me. What that tells you is that his attack on Stilley and Springer never had anything to do with truth or facts. His attack always but always had to do with the hatred, venom, and vitriol of Stephen P. Friot and the friends he willingly allowed to hide behind his black robe, the federal prosecutors in this case.

That is why, at the present time, proof of facts has nothing to do with his opinion. His opinion was never based on facts. Therefore proof that his facts were wrong, often laughably so, changes his opinion not one whit.

He has not the slightest criticism of the liars and thieves in the US Department of Justice who prosecuted Stilley and Springer. Friot can work up a venomous rage against Stilley and Springer with no true facts at all. But Friot has not the least censure or criticism the government or their lying, deceit, and flouting of lawyer ethical rules.

Let me explain. For literally decades the mighty US Department of Justice has been constructing a legal system designed for the incarceration of any political dissident they choose - law and facts

be damned. That's why faint shadow of constitutional habeas corpus, embodied in 28 USC 2255, is a minefield, a maze of traps and tricks to deprive innocent people of justice.

Why the 1 year statute of limitations for 2255 motions? Because it is much easier to stomp out due process for a year than it is to stomp it out for 20 years. Why the total hostility to effective educational opportunity in federal prisons? Because educational resources are dual use technologies. Educational resources also tend to allow incarcerated persons to vindicate their legal rights. Better a 45% recidivism rate, than that one political prisoner go free BECAUSE THEY ARE INNOCENT!

My case is symptomatic of a system that is designed to CONVICT REGARDLESS, and destroy the effectiveness of appellate rights. My case is symptomatic of a society that claims to be the land of liberty, yet incarcerates at a rate some 5 times the first world average. My case is symptomatic of a society that claims to love bastards, but makes their lives so bitter they often choose to end that life themselves. Death becomes preferable to life, in a system in which everything is a lie, and everything is designed to stamp out the last vestiges of hope for the bottom rung of society.

I'm not going to spend $505 on an appeal fee, to get the 10th Circuit's opinion on Friot's decision. I'm going to file my petition under 28 USC 2255.

I got word that I was coming to home confinement on the eve of Passover in 2020. I was on hunger strike due to yet another attempt to get access educational resources. I had already turned down the Passover food when my former counselor told me that I was going to home confinement. I took the food and ate it. I broke my hunger strike, got out of SHU, and started working my way homeward.

Yahweh put me on the path out of the house of bondage at very season he chose to lead the House of Israel out of Egypt, out of the house of bondage, some 3,500 years ago. When I was sentenced, my political enemies had no way to predict this. They expected me to be deprived of reasonable access to the courts for the duration of my sentence. Then they would say the case is "moot." Time's up, Stilley, you lose.

I've been fighting for the duration of my confinement. I've spent over 400 days in SHU, (Special Housing Unit, or jail for the prison) on hunger strike, mostly on account of efforts to get due process and reasonable access to the courts. Yes, it is true. I spent more than 10% of my total prison time in concrete boxes, in 4 different states, on hunger strike. From the first day to the day I left prison, I did not take kindly to attacks upon my constitutional rights. With whatever strength I have, I will resist. I choose not to go down without a fight.

My litigation over the denial of my right of reasonable access to the courts, amongst other things, is currently pending in the 5th Circuit. I have links to the following, not that I expect you to read it. I just want you to know I've done it, and won't give up easily.

1) Electronic record on appeal - its big at over 600 pages and about 17 megs, don't click if you don't have the bandwidth.
2) My opening brief.
3) The government's response.
4) My reply brief.

I fight, but I treasure the promise at Exodus 22:20-23. Here's what it says:

> 20 Behold, I send an angel before you, to keep you by the way, and to bring you into the place which I have prepared. 21 Take heed before him, and listen to his voice; provoke him not; for he will not pardon your transgression: for my name is in him. But if you shall indeed listen to his voice, and do all that I speak; then I will be ***an enemy to your enemies, and an adversary to your adversaries***.
> (Emphasis added)

If you live your life like Oscar, you need an enemy to your enemies and an adversary to your adversaries. Think about it. It might be worthwhile to look at this covenant made at Mount Sinai. It might not be as burdensome as you think. It might be worth it, for you, to keep the conditions placed upon you, for acquiring an "enemy to your enemies, and an adversary to your adversaries."