The Moscow Times
30 YEARS
INDEPENDENT NEWS FROM RUSSIA

Court Finds Magnitsky and Browder Guilty

By Yekaterina Kravtsova

July 11, 2013



Bailiffs standing near an empty cage in a courtroom Thursday as the court finds Browder and Magnistky guilty. **Alexander Zemlianichenko**

Moscow's Tverskoi District Court on Thursday found late Hermitage Fund lawyer Sergei Magnitsky and the fund's head, William Browder, guilty of tax evasion charges, saying they fraudulently stole more than $15 million in budget funds.

Magnitsky was imprisoned on tax evasion charges in 2008 soon after accusing officials of stealing $230 million in state funds, and he died in prison a year later. His imprisonment and death prompted an international outcry as many believed he had been falsely charged for the very same crime he discovered had been committed by officials.

Browder, a British citizen, was tried in absentia on tax evasion charges as the British government refused to extradite him.

Between 1997 and 2002, the court said, Magnitsky, who worked for Browder, created and implemented an illegal tax break scheme using two of Hermitage Capital's subsidiaries in the Kalmykia republic, Dalnaya Step and Saturn Investments.

According to the court, more than half of the employees of the two companies were registered as disabled, a scheme which allowed the firms to pay 50 percent less in taxes, though in reality there were no disabled people working there.

Judge Igor Alisov ruled to convict Browder to nine years in prison and to ban him from doing business in Russia for three years after serving his term. As for Magnitsky, he said, the investigation into him would be stopped due to his "physical absence," though he was still guilty.

Magnitsky's family vehemently opposed the trial, which began in March. The state-appointed lawyer for Magnitsky, Nikolai Gerasimov, refused to comment on the court's ruling Thursday, saying the family did not authorize him to represent the interests of the dead lawyer in court.

In accordance with a Constitutional Court decision issued in 2011, posthumous trials in Russia can be held only when the family of a dead person requests to clear their relative of the charges.

Magnitsky's mother, Natalya, said earlier this year that the government needed a guilty verdict against her son to be able to say he was a criminal. Gerasimov has frequently said the trial was illegal, noting that Magnitsky's family never asked to relaunch it.

Gerasimov asked the judge to cease the trial, but his complaints were not accepted.

"We consider the trial to be illegal; we do not participate in it, and I won't comment on the matter," said the lawyer for Magnitsky's mother, Nikolai Gorokhov, Interfax reported Thursday.

A member of the Kremlin's human rights council and former Constitutional Court judge, Tamara Morshchakova told RIA Novosti the posthumous trial against Magnitsky was "nonsense," saying it was illegal to bring a case of a dead man to conviction.

After Thursday's trial, prosecutor Mikhail Reznichenko said that although there were no official claims from the family to renew the trial, there were multiple complaints by Magnitsky's relatives in interviews in which they said he was not guilty, which prosecutors took as a demand to relaunch the trial after Magnitsky's death.

Pavel Chikov, head of the Agora human rights group and a member of the presidential human rights council, said by phone that Magnitsky's conviction was not the first case when a Russian court found a dead man guilty. But such decisions were very rare, he said, and most were minor and done out of public concern.

The Kremlin human rights council conducted its own investigation in 2011 into Magnitsky's death in prison. Although they found that Magnitsky's death was a result of severe beatings, a criminal investigation into his death was closed earlier this year due to a lack of evidence of a crime.

Browder responded to the news of the ruling Thursday by saying the ruling would likely push European governments to impose sanctions on Russians implicated in Magnitsky's death, similar to those already imposed by the U.S. Magnitsky Act, which banned 18 Russian officials from traveling to the U.S. and holding bank accounts there.

The Daily Telegraph reported Monday that the U.K. Home Office had already barred 60 Russians implicated in Magnitsky's death from coming to the Britain. But the Minister of State for Immigration Mark Harper announced the next day that such a decision had not been made.

Dalia Grybauskaite, president of Lithuania, which heads the European Union this year, said Thursday that the guilty verdict showed that the level of human rights violations in Russia was very high, though the EU hadn't yet come to a decision on whether to impose sanctions.

Magnitsky's former employer, Jamison Firestone, said in e-mailed comments that “foreign governments are appalled at this illegal trial of a dead whistle-blower. The trial in general is important, not the verdict."

Kirill Goncharov, a lawyer for Browder, said he would demand that the court reassess its decision, and would send his complaint on the matter within 10 days.

Browder, however, said he was not in contact with Goncharov and did not intend to take part in the complaint process. “I don't want the verdict to be dignified; like Magnitsky's family, my decision was to completely ignore the trial,” he said.

Contact the author at e.kravtsova@imedia.ru

Original url:
https://www.themoscowtimes.com/2013/07/11/court-finds-magnitsky-and-browder-guilty-a25745