

# Magnitsky Verdict Is In: Russia Is a Criminal State

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On Thursday, almost four years after Sergei Magnitsky's death in a Russian prison, Magnitsky was convicted of tax fraud by a Moscow court.

Back in 2008, after the Yukos show trial, corporate raiding with the help of corrupt police and courts had just become a new fact of Russian life at a time when the country's new, seemingly liberal president, Dmitry Medvedev, was asking his countrymen to fight legal nihilism.

It so happened that at exactly this time my law partner, Sergei Magnitsky, discovered a staggering case of fraud.

In 2007, police officers raided Magnitsky's and my law office. They took the corporate documents for three companies belonging to Hermitage Capital, the largest hedge fund operating in Russia. Shortly thereafter, the documents were used to put convicted criminals in control of the companies, and the \$230 million in taxes the companies had paid while under

Hermitage's control were refunded in one day to accounts in a small Russian bank owned by a convicted criminal.

The tax officials who refunded the money then went on vacation with the bank owner and bought millions of dollars of property in Dubai. The police officer who had custody of the corporate documents went on vacation with the lawyer who made the refund possible. Nobody — not even the Russian government — contests these facts.

Back in 2008, Magnitsky was sure that if he exposed this fraud, the government would prosecute those behind it. Magnitsky didn't know whether Medvedev's declared war on corruption was genuine, but he believed there were at least some limits to the country's lawlessness and criminality.

Magnitsky genuinely believed that if this huge fraud was exposed to the entire world, even the Kremlin would have to act against these crimes to preserve its credibility. It was unthinkable to Magnitsky that the government could be so corrupt and brazen that it could openly support and cover for its officials stealing from its own treasury.

Today, however, nobody believes there are any limits to the brazenness of the government. But this is largely Magnitsky's contribution to our understanding.

For the four years since Magnitsky's pretrial detention until his posthumous conviction last week, mind-blowing evidence of corruption and cruelty in the Magnitsky and Hermitage Capital cases were continuously coming to light. For much of that period, we thought the government would finally hit that magic point where it told its corrupt officials, "Sorry guys, the political damage of covering for you is just too high." But that point never came.

First it was Magnitsky's initial revelations that more than \$230 million were stolen from the government. How could the Kremlin continue to allow this if everyone knew about it?

Then we exposed the staggering wealth of the police officers and tax officials whom Magnitsky implicated. Everyone was shocked just how rich these people were and how little they had done to conceal their wealth and criminality. An entire tax inspectorate buying apartments in Dubai from the same Swiss bank account six weeks after they approved a \$230 million refund? This was all public information, and yet the government took no action whatsoever to investigate the crimes and prosecute those who were responsible.

Then, the cruel circumstances of Magnitsky's death came to light. The Interior Ministry was telling everyone that he had a heart attack and that prison doctors tried heroically to revive him. Official documents uncovered by Medvedev's human rights council told a different story. A man doubled-over in excruciating pain in need of emergency surgery was handcuffed to a cot and beaten by officers with rubber batons and left to die. Even the Moskovsky Komsomolets newspaper was shocked, running the headline "Documents Don't Lie." Moreover, state-controlled Channel One covered the story, and Medvedev seemed to acknowledge that something had gone awry. Once again, we hoped that perhaps the Kremlin would hit that point and say "Enough" But, unfortunately, we were very wrong.

With every revelation brought to light in the Magnitsky case, the Kremlin was forced to choose between the people or its corrupt officials.

Magnitsky's posthumous trial and the in absentia conviction of his client, Hermitage Capital CEO Bill Browder, was intended to protect the officials and bring closure to the Kremlin's Magnitsky problem. The tactic was as simple as it was crude and cynical: brand the whistleblowers criminals and then answer further questions about corrupt officials who got away with murder with the question, "Why are you listening to criminals?"

The trial itself was a farce. Neither Magnitsky's family nor Browder even appointed a lawyer. Even Magnitsky's court-appointed lawyer told the judge that the entire case was illegal.

So the verdict is in, but it's not the verdict the Kremlin wanted. Although the court delivered the guilty verdict as ordered, that judgment doesn't matter. It has no credibility with anyone. In early June, Interpol made this clear by flatly rejecting the Kremlin's request to issue an arrest warrant for Browder. The agency understood that the Browder case was politically motivated and without merit.

The only judgment that matters was made by millions of people in Russia and abroad as they watched the Magnitsky case unfold. There are no longer any misconceptions about the Russian government. The huge army of corrupt officials are in it for themselves, and nothing restrains their crimes. Russian officials have no shame, they are willing to kill to keep what they have stolen, and they have the full backing of the Kremlin.

Jamison Firestone is an attorney and Sergei Magnitsky's former boss.

*The views expressed in opinion pieces do not necessarily reflect the position of The Moscow Times.*

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