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Alexei Navalny's Sisyphean Battle

A suspended sentence for a leading Putin critic surprised no one, and it isn't about to end his presidential ambitions.

By Eva Hartog

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Businessman Pyotr Ofitserov (L front) and opposition activist Alexei Navalny (C) appear at Kirov's Leninsky District Court, Feb. 8, 2017. **TASS**

Over the past four years, Alexei Navalny has given many closing statements — seven, to be exact. For his last speech in a courtroom in Kirov, the opposition leader might just as well have taken out his old notes.

"The emotions are very similar," he said in court earlier this month. "But it would probably be strange to repeat myself. It wouldn't be right."

Presumably, it wasn't just Navalny who experienced deja-vu. Those attending the repeat trial of the KirovLes case must have had similar feelings. The same courtroom, the same prosecutors, the same lawyers and the same defendants, Navalny and Pyotr Ofitserov — little

seemed to have changed since the first trial into the alleged embezzlement of timber in 2013.

After three months of both sides presenting practically identical arguments and witnesses as back then, the court's verdict on Wednesday was also predictably familiar. Navalny was handed down a five-year suspended sentence — part of which he has already sat out — and a 500,000 ruble fine ($8500), which he previously already paid.

The retrial was the result of a Russian Supreme Court order in November, following a European Court of Human Rights ruling that the original KirovLes case was unlawful. More widely, KirovLes 2.0 was seen as a moment of truth for Russia ahead of the 2018 presidential elections: Would the Kremlin allow Russia's most famous opposition activist to run?

Before the court could give its answer, Navalny had already given his. In December, he caught everyone by surprise by announcing his candidacy for the presidential elections in an online video.

It instantly turned the court room into Navalny's political stage and Navalny its chief trouble-maker. After the court announced he would have to stay at the Hilton Hotel for the duration of the case, he asked who would pick up the bill and whether it covered the mini-bar. “At least organize an excursion around Kirov, invite me over to your home for a cup of tea or something,” he told the judge, who at times seemed to struggle to maintain his composure in the face of such brashness.

According to political analyst Alexander Kynev, the Russian authorities don't know how to deal with him. “Navalny is trolling them: he does something to provoke a reaction, and they do it, like a bull at a corrida,” Kynev says.

But every case against him results in more publicity. “They don't understand that the worst thing that can happen to an opposition figure is silence,” says Kynev.

Mr. President?

The allegation that Navalny had conspired to steal timber from the state-owned KirovLes company first surfaced in 2012, and was widely seen as a response to Navalny’s major role in the previous year’s anti-government protests. In the first trial, the court gave him a five-year prison sentence, thereby disqualifying him from running for mayor under a federal law that bans those convicted of “serious crimes” from participating in elections.

Following street protests, the ruling was overturned. Later, a court turned the punishment into a suspended sentence — but the gap between the rulings allowed just enough time for Navalny to run for Moscow mayor in 2013.

With its ruling this November, the Supreme Court returned the case to the Kirov court where it all began and appeared to give Navalny some respite.

But Wednesday's conviction crushed those hopes, once again presenting an obstacle to Navalny's political career. His campaign, however, vowed to press on.

Navalny has a track record of suing the Russian authorities at the ECHR — and winning — and is likely to do so with this ruling too. There is also a chance that a higher court in Russia

will once again overturn the ruling, the ⊠head of Navalny's anti-corruption group's legal team, Ivan Zhdanov, told⊠ the state-run TASS news agency.

Until⊠ that happens, there is also a "collision of laws" that Navalny's team could ⊠explore, says Grigory Melkonyats of the election monitoring NGO Golos.

According⊠ to the Russian constitution — which, in theory, trumps federal law — ⊠only those currently imprisoned are not allowed to participate in ⊠elections. As long as Navalny's sentence remains suspended, that means ⊠he could fight a possible election ban in court, Melkonyats says.

For ⊠that to succeed, Navalny would first need to register for a different ⊠election, at a local level, be denied registry and then take the matter ⊠to court, citing his constitutional rights. "He would have to change ⊠judicial practice," says Melkonyats. "But that's the judicial path, any ⊠change to his sentence would close that option off as well," he added, recognizing that whether or not Navalny is allowed to run is, above all, a political question.

Even⊠ if he does reach the Constitutional Court, his case could easily be ⊠reviewed for long enough for Navalny to miss the election.

More⊠ likely than that scenario is that the Kremlin could decide to allow Navalny to participate after ⊠all, says political analyst Dmitry Oreshkin. That would lend the election an air ⊠of legitimacy, while hardly posing a threat to the establishment.

Despite⊠ not having yet announced so publicly, Vladimir Putin is widely expected⊠ to run for another term, and win. "In general elections, Navalny ⊠wouldn't get more than 10 percent of the vote," says Oreshkin. "In ⊠Moscow, people know him, but in the provinces, few people do."

In any case, Kirov is unlikely to be a dead end.

"Things⊠ will change a couple of times yet before the campaign officially ⊠starts," says political analyst Yekaterina Schulmann. "So Navalny will ⊠continue with his campaign and then either the sultan or the donkey will⊠ die," she says, referring to a popular Russian idiom.

In other words: Navalny's best strategy is to play the long waiting game. And keep the show going in the meantime.

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