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Jailed 5 Years Without Trial, Prisoner Issues Airborne Plea



Daniel Barry for The New York Times

A pilot hired by Vadim Vassilenko's mother flew a banner Monday protesting his incarceration.

By JOHN ELIGON

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He has been blogging about his case from jail, pleading his side in lengthy writings. He says he has cut his hand and written on the wall of his cell with blood. And he has hired a pilot to fly a banner along the New York skyline proclaiming what he sees as an injustice.

Mr. Vassilenko, 44, a native of Ukraine, has been incarcerated without bail since his arrest in 2006 for a long list of financial crimes. While that case was resolved quickly with a guilty plea, Manhattan prosecutors then brought more-serious charges against Mr. Vassilenko in August 2007, including a count of enterprise corruption.

More than four years later, the case has yet to be resolved. That has Mr. Vassilenko fuming and demanding he either get his day in court or be deported to Ukraine.

“Judge, be a man — dismiss the case. Where’s my constitutional rights?” Mr. Vassilenko said he wrote on the wall of his cell in Lower Manhattan with his blood, a story that a Correction Department spokeswoman said she could not confirm.

On Monday, a pilot hired by Mr. Vassilenko’s mother flew a banner along the Hudson River that read, “My Son — V. Vassilenko — Jailed 67 Mo — No Trial — Is He Al Capone?” Mr. Vassilenko hired a pilot himself to fly a banner promoting his cause on Aug. 23.

Mr. Vassilenko’s next court date is scheduled for Tuesday, and the case is expected to be postponed further.

While legal minds agree that the timeline on this case is long, some lawyers, including Mr. Vassilenko’s current criminal defense lawyer, say his rights are not being violated. Rather, the delay seems to be

the product of a complex case with multiple defendants and complicated issues that judges have been asked to resolve.

“A small, small percentage of cases ever last this long, especially when a defendant is incarcerated and especially when we’re dealing with white-collar cases,” said Rick J. Pasacreta, who is at least the fourth lawyer to represent Mr. Vassilenko in the criminal proceeding. “It doesn’t mean that it’s not proper.”

The central obstacle in Mr. Vassilenko’s case has been legal wrangling over the most serious charge he faces, enterprise corruption, which carries a maximum sentence of 25 years in prison.

Prosecutors allege that Mr. Vassilenko, along with his wife and a third person, ran a money - laundering group, Western Express International, that allowed people to secretly traffic the proceeds from stolen credit card numbers and personal information. They used digital currency and an illegal check-cashing business to launder more than \$35 million of ill-gotten gains, prosecutors said.

Earlier in the proceedings, Mr. Vassilenko, who was also charged with scheming to defraud, conspiracy and money laundering, asked the judge to dismiss the charges against him, and on July 23, 2008, Justice Bruce Allen of State Supreme Court in Manhattan threw out the enterprise corruption charge.

But prosecutors appealed Justice Allen’s decision.

And this, it seems, is where the case languished. The appellate court in Manhattan did not issue its ruling until April 2011, which several lawyers said was an unusually long, though not unprecedented, time to issue a decision.

The appellate court reinstated the charge, meaning the case will most likely be delayed for several more months as Mr. Vassilenko and his co-defendants appeal to have the charge thrown out again.

Still, Mr. Vassilenko seems fed up. “If they have a case, they would have tried it two years ago,” he said in a brief telephone interview. “I’m saying yes, I want to plead guilty.”

But when he was given the opportunity to plead guilty in 2009 to a judge’s offer of 4 to 12 years in prison, Mr. Vassilenko balked.

Mr. Vassilenko said he now just wanted to be deported to Ukraine. But his bargaining position could be gone. Now that the top charge is back in the indictment, prosecutors said they were recommending an offer of 15 to 45 years in prison.

Mr. Vassilenko’s case has attracted the attention of the Ukrainian Consulate in New York. Bohdan Movchan, the consul, said, “This is quite strange, five years behind bars without any verdict.”

Although the consulate did not take a position on Mr. Vassilenko’s guilt or innocence, Mr. Movchan said, “We want just to deport him, then Ukrainian justice will take manage of him.”