

The President of the United States called. I was being pardoned, at last

by Conrad Black



Conrad Black in March 2018. Jim Wells/Postmedia

The two counts for which I have just received a presidential pardon, and of which I was “convicted” in 2011, after the U.S. Supreme Court unanimously vacated them only to have a self-serving appellate judge reinstate them, were for wire fraud and obstruction of justice.

The alleged fraud was reception of \$285,000 in my office in Toronto while I was in England, from our American company, which was approved by independent directors, referred to in

public filings of the corporation, but which the company secretary had not completely formalized, in what the trial judge correctly regarded as a clerical error on the secretary's part. The reinvention of this crime enabled the appellate panel to whom the Supreme Court remanded the vacated counts "to assess the gravity of their own errors" to resuscitate a count of obstruction of justice against me. This consisted of my removal of boxes of personal papers and material that had already been furnished to the Securities and Exchange Commission, which I took out under security cameras I had had installed, with the approval of the acting president of the company and the principal member present of the court-appointed inspector, as I vacated my office of 27 years from a building I chiefly owned, on an unjust local court order of a publicity-seeking judge. The local jurisdiction found no cause of action nor any violation of a document retention order. I was always presumptively innocent in the initial jurisdiction. It was nonsense, all of it; there was never a word of truth to any of it. And now it is over, after 16 years, including three years and two weeks in U.S. federal prisons.

Prior to Monday of last week, I had only once before, 18 years ago, received a telephone call from an incumbent president of the United States. I had not spoken to the current president since he took office. When my assistant said there was a call from the White House, I picked up, said "Hello" and started to ask if this was a prank (suspecting my friends in the British tabloid media), but the caller spoke politely over me: "Please hold for the president." Two seconds later probably the best-known voice in the world said "Is that the great Lord Black?" I said "Mr. President, you do me great honour telephoning me."

He could not have been more gracious and quickly got to his point: he was granting me a full pardon that would "Expunge the bad rap you got." He had followed the case closely and offered to come to give evidence at my trial in Chicago in 2007 on one of the counts (I was acquitted of that one). He

said that there would be some controversy, "But you can handle that better than anyone." I asked "Do you authorize me to say that your motivation is that it was an unjust verdict?" He checked with the White House counsel, Pat Cipollone, who was in the room, if this would be a problem legally, and was told and affirmed to me that I could say that was his motive and that he was reversing an unjust verdict.

"We've known each other a long time," the president told me, "but that wasn't any part of the reason. Nor has any of the supportive things you've said and written about me." I suggested that he knew "better than anyone" the antics of some U.S. prosecutors. (I had had Robert Mueller as director of the FBI, which we caught installing illegal bugging devices in our home in New York and in many falsehoods; James Comey as deputy attorney-general, and Patrick Fitzgerald, now Comey's counsel, as U.S. attorney in Chicago. They were all, as my distinguished caller on Monday has described Comey, "bad cops.") We moved briefly on to generalities, greetings to wives, I thanked him for his call and again for the purpose of his call, and the conversation ended.

For my friends, no explanation was ever necessary; for my enemies, none would ever have sufficed

My long ordeal with the U.S. justice system was never anything but a confluence of unlucky events, the belligerence of several corporate governance charlatans, and grandstanding local and American judges, all fanned by an unusually frenzied international media showing exceptional interest in the case because I was a media owner.

The rockslide began in 2003 when it came to light that some payments from our American to our Canadian company and to certain executives, including me, though fully revealed in public filings, had not been fully authorized. As the controversy continued, local Toronto judges and the Ontario

Securities Commission prevented us from running the company, where there was no accounting fraud, hard profitable assets, and \$2 billion of shareholder equity, all of which was squandered in poor administration and greedily consumed by court-appointed or sanctioned lawyers and accountants and the relentless intrusions of regulators seeking headlines, not the shareholders' interest.

The vaporization of \$2 billion dollars of shareholder value affected tens of thousands of families in all parts of Canada and the United States. With aching slowness the case against me disintegrated. Of the 17 counts in 2005, four, including money-laundering and perjury, were abandoned. Nine others were acquittals by a prodigiously un-Solomonic jury, many of whom slept through the proceedings. So, at times, did my infirm counsel. They were good men but of advanced age and poor health, and lacked experience in commercial cases; one was a Canadian lawyer who had never pleaded in an American court before. They did not have the stamina for an 18-week, very complicated criminal trial. (Mark Steyn called them "the dream team," a bit unfair but at such times one must get one's laughs where they arise.)



Former Hollinger International CEO Conrad Black and his wife Barbara Amiel Black arrive at the Dirksen Federal courthouse, July 13, 2007 in Chicago. Scott Olson/Getty Images/File

The heaviest counts were among those rejected, such as the preposterous charge of racketeering. I was convicted on three fraud counts, and one of obstruction of justice. I reported to low-security prison and had an interesting time tutoring inmates who had failed in the attempts the Bureau of Prisons requires of all inmates who have not matriculated from high school to get over that hurdle. I recruited a tutor for science (a former commander of the torpedo room of a nuclear submarine), and one for mathematics (a mathematics teacher from a high school in Arkansas). All of the 204 candidates we worked with during my time did indeed graduate. While it was

an outrage that I was there at all, I got on well with everyone, found many of the people there interesting and often memorable characters, and the graduation ceremonies for our students moving occasions. My wife came to visit me every week, even when she had to come directly from the Olympics in Beijing.

We went to the Circuit Court of Appeal in Chicago, where I was represented by the former deputy solicitor general of the U.S., Andrew Frey. But the presiding judge, Richard Posner, levitating in his megalomania, obviously had not even read the filings and interrupted my lawyer in 32 of the 45 sentences he began. Posner was just part of the prosecution.

The eminent barrister Miguel Estrada appealed for me to the Supreme Court of the United States, which only agrees to hear about two per cent of the applications it receives. The court accepted our petition and unanimously vacated the four remaining counts, declared the Honest Services Statute that had been the basis of the convictions to be unconstitutional, and rewrote it, requiring a bribe to take place (one was never alleged in our case). In the peculiar American practice, it sent the case back to Posner and the two silent judges on his appellate panel. I was released on \$2 million dollars bail (down from \$38 million during the trial), but could not leave the United States. Even Posner, who was on the losing end of public acerbities with a couple of the Supreme Court justices at the time, dropped two of the counts, but resurrected the clerical error of the company secretary as a crime of the co-defendants, enabling Posner to cling like a drowning man to the rubbish about obstruction, which Andy Frey told him was "in 45 years of practice, the feeblest case of obstruction of justice I have seen." This was a flimsy fig-leaf to maintain the absurd pretence that there had ever been the slightest justification for the lengthy and expensive prosecution in the first place. And the trial judge, equally spuriously, sent me back to prison for a seven-month victory lap, congratulating

me on “being a better person” because of my imprisonment and the extensive evidence the U.S. Probation Office presented of my exemplary performance as a tutor.

“The court wishes you well, Mr. Black” were her parting words. They were unrequited.

My long ordeal with the U.S. justice system was never anything but a confluence of unlucky events

On May 7, 2012, I went directly from Miami Federal Prison to the airport and onto a chartered plane and returned to my home in Toronto after an absence of five years. It was seven years less a day after that that President Trump called me. I am now, at last, officially not guilty even in the conviction-mad United States. None of this would have been the subject of a criminal case in any other serious jurisdiction. It was for this fiction that I spent three years and two weeks in prisons and endured significant official persecution in Canada, and the great companies my associates and I built over more than 30 years were torn down, driven into bankruptcy and destroyed, while the trans-border corporate governance hypocrites stuffed a third of a billion dollars into their pockets in ill-gotten professional fees.

I did have the satisfaction of winning the greatest libel settlement in Canadian history (\$5 million) from the egregious Richard Breeden, former chairman of the Securities and Exchange Commission, and the other authors of the infamous special committee report of 2004, which really poured gasoline on the fire and ignited the criminal charges. The American criminal justice system is frequently and largely evil; I was convicted for attempted obstruction of injustice. It was never anything but a smear job.

For my friends, no explanation was ever necessary; for my enemies, none would ever have sufficed. As I told the trial judge at resentencing: I always try to take success like a

gentleman and reversals like a man. On to better things and brighter days.

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