

Hard Time

Eco-saboteurs may face high security prisons

Many of those sentenced in Operation Backfire face possible incarceration in maximum-security prisons or facilities designated for terrorists due to the application of the terrorism enhancement.

The last of the Backfire sentencing did not take place this week as scheduled. After several hours of discussion, federal Judge Ann Aiken had pronounced a sentence of 51 months for Jonathan Paul. But at the very last moment, Marc Blackman, attorney for Paul, disputed the application of federal sentencing guidelines. The date of the sentencing is not set, and is not expected to take place for several weeks.

‘There were reports of abusive use of restraints and of electro-shock weapons, and allegations of sexual and physical abuse in several prisons and jails.’ – Amnesty International

Paul, unlike eight of the other defendants, did not receive the terrorism enhancement for his participation in the arsons. Paul was involved in the Cavel West horse slaughterhouse fire, which like the fires at U.S. Forest Industries, Childers Meat Company, Superior Lumber and Boise Cascade did not have “clear and convincing evidence” they were “calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct.”

Paul, when he does get sentenced, has requested placement at Federal Correctional Facility (FCI) Sheridan. Sheridan is a medium security facility that also has a nearby minimum security federal prison camp.

The camp made the Forbes.com “Home Page for the World’s Business Leaders” list of 10 best places to go to prison.

Although Paul and other defendants without the enhancement may eventually be able to enter one of the prison camps, most of those sentenced face long sentences in stark facilities.

The enhancement requires the defendants be sentenced with a criminal history category of VI, the highest level. Ordinarily, someone like Stanislaus Meyerhoff or Kevin Tubbs who had no prior convictions would be a level I. This, in combination with the offense levels, creates a longer sentence at a higher-security prison. The higher the security the less access a prison has to visitors, phone calls and social interaction with other prisoners.

With a criminal history category of VI and an offense level originally set at a base of 42 points, Meyerhoff’s initial sentencing guidelines were only one level below the base level of 43 that would be given a airplane hijacker who killed someone in the hijacking.

Judge Aiken and the government prosecutors gave Meyerhoff and the most of the other defendants “downward departures” from the base on the sentencing scale for their acceptance of responsibility for their actions, substantial assistance to the government, and either their remorse or their attempts to transform for the better after the arsons or their arrests.

But even with the downward departures, many of the defendants will be above the 23

points allowed for a medium-security facility.

Federal inmates may request particular placements, but must go wherever the system sends them. Often prisoners are sent hundreds or thousands of miles away from families and loved ones.

During Meyerhoff’s sentencing, the defense discussed at great length the possible consequences of being labeled with the terrorist designation. Aiken at later sentencing said, “This is not meant to label you a terrorist. Elements of your offense used force and intimidation to affect the conduct of government.”

The Bureau of Prisons (BOP) will ultimately choose where prisoners are sent and

their security designations. Because the terrorism enhancement was applied, it is possible some defendants will be sent to the new “terrorist prison unit” in Terre Haute, Ind., created for what attorney Amanda Lee called an oxymoron – “low-risk terrorists.”

At Terre Haute prisoners have all communications monitored. Phone calls are limited and visits are restricted to four hours a month. Terre Haute is also the location of the federal government’s death row and execution chamber.

Harvey Cox, a retired BOP warden who spoke at Meyerhoff’s sentencing said maximum security facilities have several assaults a week, some resulting in murder. According to Human Rights Watch the number of prison rapes is difficult to estimate as many go unreported. Some prison rapes result in HIV infection.

Amnesty International has investigated incidents at American prisons ranging from women locked in and forced to stand in cages in their own urine and feces to “abusive use of restraints and of electro-shock weapons, and allegations of sexual and physical abuse.”

Aiken referred repeatedly to the sentencing as “difficult” as the defendants are “bright” and “educated.” Most of her defendants, she said, stand alone in empty courtrooms for sentencing, while the Backfire defendants were accompanied by their families and packed courtrooms.

Aiken expressed frustration with the prison system during several of the sentencing. In Meyerhoff’s case and others, she offered to write a letter to the BOP requesting placement in facilities where the defendants will be safer, and where they can use their skills and education to help others.

Chelsea Gerlach, currently held in Lane County Jail as she awaits placement in a federal prison has been teaching a fellow inmate how to speak English.

There are far fewer prisons for women than for men. Female prisoners, especially those with higher security designations, have the least chance of going to a prison near their families and loved ones. Gerlach was sentenced nine years, and was given the terrorism enhancement.

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