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**WLF URGES HIGH COURT TO REVIEW
UNREASONABLY HARSH SENTENCE FOR
SMALL-BUSINESS OWNER**

(United States v. Rubashkin)

U.S. Supreme Court

The Washington Legal Foundation (WLF) last week urged the U.S. Supreme Court to review the imposition of a harsh, 27-year sentence for a small-business owner who was a first-time offender. If granted, review by the high court could have a significant impact on federal sentencing practices that affect all federal defendants, including business owners and company executives who are currently exposed to excessive prison terms for regulatory offenses.

The case arises from the U.S. Court of Appeals for the Eighth Circuit's affirmance of a 27-year sentence for Sholom Rubashkin, the owner of Agriprocessors, a Kosher meat processing plant in Pottsville, Iowa. In its brief filed in *Rubashkin v. United States*, WLF argued that the sentencing judge largely ignored the Supreme Court's repeated admonition not to reflexively presume reasonable any sentence within the Guideline range. WLF further argued that the functional life sentence given to Mr. Rubashkin (who is 51 years old) is incompatible with his personal history and is substantively much greater than necessary to comply with the purposes of federal sentencing set forth by Congress.

WLF's brief was drafted with the *pro bono* assistance of Professor Douglas Berman of The Ohio State University's Moritz College of Law, who is one of the nation's most widely recognized sentencing experts.

WLF filed the brief on its own behalf and on behalf of its clients, six noted criminal law scholars who teach, conduct research, and regularly publish on federal sentencing matters. WLFs' clients include Professors Albert Alschuler of Northwestern University Law School; Nancy Gertner of Harvard Law School; Marc Miller of University of Arizona's James E. Rogers College of Law; Ronald Rotunda of Chapman University School of Law; Christopher Slobogin of Vanderbilt University School of Law; and Stephen F. Smith of University of Notre Dame School of Law.

For 20 years, the Federal Sentencing Guidelines dictated mandatory sentences that regularly called for severe prison sentences, some ranging from three to nine years, or even more, for minor regulatory infractions where no harm occurred. In 2005, however,

the Supreme Court in *Booker v. United States* struck down the mandatory feature of the Guidelines as unconstitutional under the Sixth Amendment's right to trial by jury.

WLF is a public interest law and policy center with supporters in all 50 States. WLF has long been at the forefront of those organizations critical of the U.S. Sentencing Guidelines. WLF participated in the *Booker*, *Rita*, and *Gall* cases, and many other Guideline cases in the lower federal courts. WLF also sued the U.S. Sentencing Commission for not conducting its business in an open and transparent manner.

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For further information, contact WLF Senior Litigation Counsel Cory Andrews, (202) 588-0302. A copy of WLF's brief is posted on its web site, www.wlf.org.