



October 25, 2021

The Honorable Joseph R. Biden, Jr.
President of the United States
White House
1600 Pennsylvania Ave. NW
Washington, DC 20500

The Honorable Merrick Garland
Attorney General of the United States
Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

Dear President Biden and Attorney General Garland:

On behalf of our 1.5 million supporters nationwide, People For the American Way is writing to urge you to conduct a thorough review and take appropriate action concerning the ongoing legal case involving human rights lawyer Steven Donziger and the recent [report](#) of the United Nations Human Rights Council's Working Group on Arbitrary Detention (WGAD) concerning the Donziger matter. People For has long been concerned about protection of civil rights and liberties and abuses of authority by government officials, including judges. The facts of Mr. Donziger's situation and the serious concerns expressed by members of Congress, the UN Working Group, and many others warrant prompt consideration and action by you.

As your offices have previously been informed and as recounted in the WGAD report, the action against Mr. Donziger stems from a court judgment that he helped obtain a decade ago in Ecuador of over \$9 billion in damages against the Chevron corporation for serious environmental and health harm it caused in the Amazon rainforest and nearby communities in that country. Chevron then sued Donziger and others involved in the Ecuador case and blocked enforcement of the judgment in a case handled by Judge Lewis Kaplan of the Southern District of New York, who had criticized Donziger and the case against Chevron. Because of a dispute about turning over information that Donziger maintained was protected by attorney-client privilege, Kaplan found Donziger in criminal contempt and placed him under house arrest for what turned out to be more than two years, far longer than the six-month period for which he could be ordered to be confined for the misdemeanor criminal contempt charge. The US Attorney's Office declined to prosecute, and Kaplan took the unusual step of appointing a special prosecutor, who had previously worked for Chevron, and personally selecting the judge who would hear the case.

Based on these facts, the UN WGAD concluded that Donziger's detention was "arbitrary," had caused Donziger to serve the "maximum possible penalty" for the criminal contempt charge "some four times over" before any trial began, and "appears to be retaliation" for his work against Chevron. The WGAD concluded that it was "appalled" by what had happened to Donziger, including the "staggering display of lack of objectivity and impartiality" shown by Judge Kaplan, and that there have been "very serious" violations of provisions of the International Covenant on Civil and Human Rights.

Numerous other individuals and organizations have expressed similar criticism and concern about the Donziger matter. For example:

- House Rules Committee Chairman Jim McGovern and five other members of Congress [wrote](#) to Attorney General Garland in April, seeking a “full and fair review” and expressing “deep concerns” about the troubling and “unprecedented nature” of what has happened to Mr. Donziger and its potential effects on “representation and advocacy” for “victims of human rights violations.”
- More than a dozen national and international human rights and other organizations, including the National Lawyers Guild, Amnesty International, and the Union of Concerned Scientists, [wrote](#) to Attorney General Garland earlier this year and decried the “extraordinarily disturbing legal attacks” against Mr. Donziger and the “message of intimidation” being sent to “future public interest lawyers” who seek to “hold the [oil and gas] industry accountable for wrongdoing.”
- A [written critique](#) by retired federal judges Nancy Gertner and Mark Bennett called the contempt case against Mr. Donziger “excessive” and “deeply troubl[ing].”
- 68 Nobel Prize Laureates [wrote](#) to Attorney General Garland seeking a high-level review of the Donziger case, in order to help show that it “clearly is a violation of Mr. Donziger’s rights and the rights of the affected communities in Ecuador.”
- The International Association of Democratic Lawyers and the Lawyers Committee for Human Rights joined with 35 other legal groups representing more than 500,000 lawyers last year in filing a judicial [complaint](#) against Judge Kaplan, based on a pattern of “statements and actions” by Kaplan that show that he has effectively “taken on the role of counsel for Chevron” instead of a neutral judge, thus violating “his duty of impartiality under the canons of judicial conduct” and threatening to have a “chilling effect on the work of other human rights lawyers.”

Actions against Mr. Donziger continue, as he now faces six months of actual imprisonment, possibly in the maximum-security Metropolitan Detention Center in Brooklyn even though he has no prior criminal record, as he appeals his misdemeanor criminal contempt conviction on October 1. We urge both the White House and the Department of Justice to review the WGAD findings and recommendations and the entire Donziger matter and to take appropriate action promptly.

Sincerely,



Benjamin Todd Jealous
President