



For Immediate Release

October 22, 2007

**COURT URGED TO REJECT SIX-YEAR PRISON
SENTENCE FOR MINOR EPA OFFENSE**
(United States v. Hagerman)

The Washington Legal Foundation (WLF) filed a brief last week in the United States District Court for the Southern District of Indiana in Indianapolis urging the judge to reject a recommendation by the U.S. Attorney to sentence a small business owner to prison for over six years. WLF recommended that the court impose probation instead for this first offender found guilty of minor discharge reporting offenses where there was no showing of any environmental harm.

In *United States v. Hagerman*, Derrik Hagerman was charged with filing false monitoring reports for a few discharges in 2004 from Wabash Environmental Technologies, a wastewater treatment facility owned by Mr. Hagerman, in violation of the Clean Water Act. Instead of handling this infraction by using more reasonable and effective administrative or civil remedies, the U.S. Attorney filed felony criminal charges. Before trial, the U.S. Attorney filed a motion to prevent Mr. Hagerman from introducing any evidence that there was no environmental damage from the alleged violations, which the court granted. Mr. Hagerman and his company were found guilty of the offenses.

For this relatively minor regulatory offense, prosecutors are seeking a Draconian 78-month prison sentence for Mr. Hagerman, who is a first-offender, pillar of his community, and father of three small children, based on the advisory U.S. Sentencing Guidelines. In its brief, WLF vigorously opposed the recommendation and urged the Court to impose instead a reasonable sentence of probation. WLF argued that the Sentencing Guidelines in general and the section covering environmental offenses in particular were fatally flawed in the promulgation process and should be ignored. WLF also cited several other cases where courts have imposed probation for similar infractions.

"Prosecuting Mr. Hagerman was overkill. Trying to throw him in prison for any length of time, let alone for six-and-a-half years as the prosecutors want, is outrageous, particularly where there was no showing that any environmental damage occurred as a result of these reporting errors," said Paul Kamenar, WLF's Senior Executive Counsel. WLF filed the brief as part of its CRIMINALIZATION OF FREE ENTERPRISE-BUSINESS CIVIL LIBERTIES PROGRAM. A sentencing hearing is scheduled for November 15, 2007.

* * *

For further information, contact Paul Kamenar, WLF's Senior Executive Counsel, at 202-588-0302. A copy of WLF's brief is posted on its website at www.wlf.org.