

What Every MC Needs to Know About the Mongols MC Sentencing

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Entire Mongol Nation Gets 500k Fine, 5 Years Federal Probation.

The National Council of Clubs (NCOC), representing the interests of motorcycle clubs nationwide, is extremely alarmed that the recent sentence imposed in *US v. Mongol Nation* case will be seen as a green-light for the federal government to target innocent members of other motorcycle clubs that have had members found guilty under RICO.

On May 17, 2019, ironically the 4th anniversary of the Waco biker tragedy, Judge David Carter, presiding in the Federal District Court of Central California, sentenced the Mongol Nation following a trial in which a jury found the club as an entity guilty of RICO Racketeering and Conspiracy. On a positive note, Judge Carter again denied all requests related to forfeiting the club's patch and collective marks. On a not-so-positive note, Judge Carter imposed a \$500,000 sentencing fine to be paid in monthly installments of \$8,475 until paid in full. Finally, and most concerning to the NCOC, Judge Carter placed the entire Mongol Nation on Federal probation for a term of 5 years. Essentially, Judge Carter has opened the door to a legal campaign of profiling and harassment targeting the entire Mongols Motorcycle Club.

Smoke and mirrors

While the majority of the focus has understandably been on issues related to saving the patch and the government's attempts to seize the Mongols collective membership marks, there has been little discussion related to the Mongols Nation being indicted as an entity under RICO for the first time in history.

The government's goal for more than a decade has been seizure of the club's patch as a form of sentence under RICO. Although rebuked at every juncture, the strategy of indicting the Mongol Nation as an entity was yet another attempt to take the patch. Although Judge Carter has consistently denied patch forfeiture requests, the other independent consequences of being indicted as an entity are beginning to surface.

Carter orders \$500k in sentencing fines

When Judge Carter denied patch, forfeiture based on 1st and 8th Amendment grounds, he also made it clear that the government had an interest in targeting the financial foundations of the Mongols Nation. Judge Carter writes, *"It is beyond question that the government has a legitimate interest in attacking the economic roots of a criminal organization like the Mongol Nation."*

At the May 17th sentencing hearing Judge Carter reinforced this belief. Judge Carter ordered the Mongol Nation to pay \$500k in sentencing fines, \$250k per RICO count. Carter rejected the government's request for \$1 million in fines. The club is required to pay monthly installments of \$8,475 until the fine is paid.

With hundreds of members nationwide, attorney Stephen Stubbs has stated the Mongol Nation is capable of paying this fine. However, the magnitude of this fine has serious implications for the majority of the motorcycle club world if this strategy is employed against other clubs. Simply put, \$500k in sentencing fines would likely financially crush all but the biggest clubs.

Mongol Nation sentencing fine ignores personal guilt.

Independent of the practical ability to pay massive fines, consider that these fines are being collected from individuals that did not commit any of the crimes the Mongol Nation was found guilty of. Many of the crimes used to establish a RICO violation go back more than a decade. Those culpable individuals have already been sentenced and many have already paid their debt to society.

The idea that restrictions and punishment are being applied to innocent individuals runs counter to long-established judicial principles. *There is "no evidence that by merely wearing [Mongols MC] "colors," an individual is "involved in or associated with the alleged violent or criminal activity of other [Mongols MC] members. It is a fundamental principle that the*

government may not impose restrictions on an individual “merely because an individual belongs[s] to a group, some members of which committed acts of violence.” In fact, the Supreme Court has long “disapproved governmental action . . . denying rights and privileges solely because of a citizen’s association with an unpopular organization.” Healy v. James, 408 U.S. 169, 185-86 (1972).

To impose restrictions on any person “who wears the insignia of [the Mongols MC], without regard to or knowledge of that individual’s specific intent to engage in the alleged violent activities committed by other members, is antithetical to the basic principles enshrined in the First Amendment and repugnant to the fundamental doctrine of personal guilt that is a hallmark of American jurisprudence. see Coles v. Carlini 162 F.Supp.3d 380 (2015)

The entire Mongol Nation gets 5 years federal probation.

The NCOC believes that the most concerning element of sentencing is Carter’s decision to place the entire Mongol Nation (defined as all official or full-patched members) on federal probation for a period of 5 years. Nothing like this has ever been done, which creates a great deal of ambiguity and potential for abuse. This is particularly true considering that Assistant US Attorney Steve Welk and ATF agent John Ciccone are in charge of the Mongol Nation probation and both of these men have demonstrated the desire to dissolve the Mongols Nation by any legal means.

Understanding federal probation placed on an individual is clear-cut and defined. For example, an individual on probation is always prohibited from possessing and carrying firearms and has no defense against search and seizure while on probation. But when those same restrictions are placed on the Mongol Nation as an entity, what about individuals that legally possess and carry weapons?

Mongol Nation Attorney Stephen Stubbs asked Judge Carter for clarification. Judge Carter explained, for example, that the firearm restriction would not prohibit individuals that legally carry in their individual capacities. However, if there is a nexus or an implied connection to the Mongol Nation leadership then the prohibition applies.

But even Judge Carter’s explanation is ambiguous, which creates more questions than answers. Does this mean individuals wearing a Mongols patch cannot carry a weapon? Does this mean no one can possess a weapon in a Mongol Nation clubhouse or at a Mongol Nation event? If so, what about associates and friends? Does this mean that no one can carry a weapon when around the leadership of the Mongol Nation?

In terms of search and seizure, what is considered Mongol Nation property or a Mongol Nation clubhouse? If a club meeting is held at an individual’s home does that mean it is functioning as a clubhouse? Can any member or associate be freely searched without reasonable suspicion or probable cause if they are inside a Mongol Nation clubhouse?

Beyond the Mongol Nation

Regardless of any personal opinions, the fate of the Mongols MC is in many ways creating a blueprint for the destruction of motorcycle club culture across the board, particularly 1% clubs. Indeed, it is even more accurate to argue that the fate of the Mongols MC is creating a blueprint for the destruction of civil liberties in general, far beyond just motorcycle clubs. Unification of energy, intellect and resources may be the only chance motorcycle club culture has to resist the monolithic power of the federal government and the attempts to extinguish an entire community.