

Front page

Former Enron CEO Jeff Skilling reports to the Federal Correctional Institute today in Waseca, Minn.

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Ex-Enron CEO Skilling reports to prison

By **KRISTEN HAYS**

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WASECA, Minn. — Former Enron CEO Jeff Skilling arrived at a federal prison in Minnesota shortly after noon today to begin serving his sentence in the corporate scandal.

He was driven into the prison by his brother, Mark. Skilling rode in the passenger seat of the silver Jeep Liberty with his wife, Rebecca Carter, sitting in the back. Next to her was Sherri Sera, Skilling's longtime assistant at Enron.

Their goodbyes took less than five minutes.

The foursome went inside the glass sliding doors at the prison's entrance, Skilling and his wife arm in arm. He hugged his wife, then his brother, then Sera, who made an impassioned statement in Skilling's favor at his October sentencing hearing before U.S. District Judge Sim Lake imposed a 24-year, four-month term. Skilling hugged his wife a second time, and she, Sera and Mark Skilling came back outside, climbed in the SUV and drove away.

The windows of the vehicle were rolled up and no one spoke to the reporters gathered outside.

Within a few minutes of their departure, Skilling walked outside the main entrance of the building, behind double fencing topped with barbed wire, to another building on the lockup's compound. The black topcoat he wore upon his entrance was already gone.

Skilling was originally scheduled to begin serving his 24-year, four-month sentence by 2 p.m. Tuesday.

But late Monday, the 5th Circuit Court of Appeals issued an order postponing his report date until it gave "careful consideration" to his request for bail while he appeals his convictions on 19 criminal counts.

"This order is entered solely to allow this court to give careful consideration to the request for bail pending appeal," the court said in Monday's filing.

Within 24 hours, however, the decision was made.

Despite what it called "serious frailties in Skilling's conviction" a three-judge panel of the 5th Circuit ruled Tuesday that Skilling must remain in custody during his appeal.

In the order, the court indicated that its decision earlier this year to overturn convictions in another Enron trial -- the Nigerian barge case -- created "difficulties" for Skilling's convictions of conspiracy, securities fraud and insider trading.

"Yet Skilling raises no substantial question that is likely to result in the reversal of his convictions on all of the charged counts," the order continues.

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Skilling's attorney Daniel Petrocelli said in an e-mail Tuesday night that he was disappointed with the decision but " ... we are very pleased with the court's conclusion that there are serious frailties with the convictions."

The odd timing of the court's decisions was baffling to some observers.

"I can't imagine why they did it like this," said David Berg, a Houston trial lawyer who has followed the case. "Maybe just a bad sense of humor?"

Skilling's appeal has not yet been filed, but there are four main points his defense team likely will focus on, according to court filings:

-- The jury shouldn't have been allowed to use the theory that Skilling denied Enron of the intangible "honest services" he owed the company.

-- The jury should not have been instructed that Skilling could be found guilty if he was "deliberately indifferent" to wrongdoing.

-- Jurors in the trial were biased because of unfair media coverage in Houston and the widespread impact of Enron's bankruptcy on the community.

-- Prosecutors denied the defense access to witnesses and made pretrial discovery difficult.

The misuse of the "honest services" argument was supported by the 5th Circuit's decision earlier this year to throw out charges against former Merrill Lynch executives in the barge case. In that case the court determined the bankers didn't profit personally from their actions and that the Enron workers they helped were carrying out Enron's corporate goals.

Petrocelli argued the jury shouldn't have been allowed to use the "honest services" argument in Skilling's case because he, too, was carrying out the company's goals.

In its reply to Skilling's motion to remain free pending appeal, the government argued the Merrill Lynch decision shouldn't apply to him because he was part of the management that set those goals.

"In other words, he was not following corporate policy or superior orders; he set policy and gave orders," the government argued.

If his appeal is denied, he can ask that the entire 5th Circuit hear the case and that the U.S. Supreme Court hear the appeal.


Since his sentencing in October, Skilling has been under court order to remain confined at home. He was ordered to wear an electronic monitoring ankle bracelet at all times so authorities could track his movements, and he can leave home only for specified reasons, such as medical appointments or court hearings.

Petrocelli said his client was prepared to fly to Minnesota early Tuesday, but when he got word of the delay "he remained home."

In Waseca on Tuesday, the delay was seen as just that: a brief respite from the inevitable.

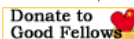
"The man escaped for a while, didn't he?" said Waseca Mayor Roy Srp. "There is no doubt in my mind that Mr. Skilling is going to prison. It's just a matter of how much money is spent to postpone the inevitable."



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