

Sixth Circuit Grants P.G. Sittenfeld Release from Prison Pending Appeal

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Today, the Sixth Circuit took the relatively rare step of granting a criminal defendant's release from prison before deciding the merits of his case. That followed last week's [oral argument](#) in the high-profile criminal appeal of Alexander "P.G." Sittenfeld, the former Cincinnati City Councilperson. Sittenfeld's counsel closed his rebuttal argument by renewing his request for release from prison pending appeal, in advance of the Court issuing its opinion. The court granted that relief today (subject to conditions) in a [per curiam order](#). This interim relief is a positive development for Sittenfeld, though the court was careful to "express no opinion on the ultimate outcome of Sittenfeld's appeal." The briefs and oral argument satisfied the panel that Sittenfeld at least met "the standard for release pending appeal."

[Federal law](#), the court explained, "permits release pending appeal when the court finds the defendant is not a flight risk, does not pose a danger to the safety of others, and that a successful appeal "would result in reversal or a new trial." Sittenfeld first requested release last October when the district court announced his sentence, after a jury convicted him of public corruption. The district court found that Sittenfeld met the first two requirements—he is neither a flight risk nor a danger to others—but not the third. Today, the Sixth Circuit clarified that reversal need not be "probable or likely" to satisfy the third requirement; an appeal that presents "a close question" is enough.

Looking ahead, Sittenfeld will await the court's merits decision. If some arguments leave an impression that one party is overwhelmingly likely to prevail, this was not one of them. At argument, the active panel asked difficult questions of both advocates, diving deep into the facts and their application to the legal standards at play. The court could side with the government and affirm the jury conviction. Or the court could reverse the conviction for either of two reasons. Sittenfeld's first argument is that the trial record contained inadequate evidence to support a conviction, requiring an acquittal and ending the case. Short of exoneration, his second argument is that the government constructively amended its indictment, which it cannot do, requiring a new trial. Stay tuned for the court's opinion—and potentially more litigation to follow.

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