

## The Curious Case of Troy Ellerman

Written by Maury Brown

Tuesday, 08 September 2009 00:00

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Troy Ellerman, who was sentenced to 30 months in federal prison for leaking BALCO grand jury transcripts to Mark Fainaru-Wada and Lance Williams, was released from prison in January of this year, 14 months before his sentence was to be completed. Why, is still unclear.

UPDATE #3 - The *New York Daily News* informs us that as part of a larger story on BALCO, Ellerman's release was reported in late Feb. of this year ( [see Page 4 of the story](#) )

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UPDATE #2 - Ronald Blum of *The Associated Press* fills in further (see [BALCO lawyer released from prison](#) ). Blum reports, in part:

*[P]risoners who serve more than one year are eligible to receive 54 days off for each year of good behavior under standard rules," [Bureau of Prisons spokeswoman Traci*

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***Billingsley said Tuesday].***

***Ellerman's release was first reported Tuesday by the Web site [BizofBaseball.com](http://BizofBaseball.com) .***

***"He's looking for some full-time work," said Ellerman's lawyer, Scott L. Tedmon. "He's going to be doing some consulting on the business side, which is similar to what he was doing with the rodeo."***

***Ellerman was commissioner of the Professional Rodeo Cowboys Association from 2005-07. He voluntarily surrendered his membership in the California Star Bar rather than face disbarment.***

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**UPDATE - According to Ellerman's lawyer, Scott L. Tedman, Ellerman completed the in-prison 500-hour Residential Drug Abuse Program, which Ellerman voluntarily participated in and successfully completed. Upon completion, Ellerman's time in custody was reduced by approximately 12 months, which along with the statutory work-time credits allowed him to be released to a halfway house in January. He has since left the halfway house.**

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When the story of the **BALCO investigation** is often told, the key characters in the saga normally center around **Barry Bonds**, or **Greg**

**Anderson**

, or

**Victor Conte**

**"The Clear" and "the Cream"**

have become part of America's lexicon, two writers that wrote for the

***San Francisco Chronicle***

penned a best seller around

**Barry Bonds**

, and the federal investigation into steroid use in

**Major League Baseball**

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that continues to this day.

But, a key player in the saga is a now former lawyer who was sentenced to the longest prison term as part of BALCO, **Troy Ellerman**.

And, as of today, Ellerman is one of the more curious cases in the wake of of the innvestigation.

It was Ellerman, not Victor Conte, the former head of BALCO Laboratories, who leaked the sealed grand jury transcripts regarding **Barry Bonds, Jason Giambi, Gary Sheffield**, and sprinter

**m Montgomery**

to

**Mark Fainaru-Wada and Lance Williams**

, the Chronicle reporters who published several articles in 2004, and eventually, the book

***Game of Shadows***

on the steroid scandal.

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Ellerman, who at one point represented Conte and BALCO VP **Jim Valente**, agreed to plead guilty to two counts of criminal contempt, one count of filing a false declaration, and one count of obstruction of justice. Ellerman was caught after

**Larry McCormack**

, a former sheriff turned private investigator from Yuba City, California, and once a friend of Ellerman, wore a wire and gathered evidence for the FBI that revealed Ellerman to be the source of the leaks for Fainaru-Wada and Williams.

**Prosecutors sought a two-year prison sentence, while Ellerman's defense sought 15 months** ( [see details of Ellerman's consideration for a 15-month sentence – PDF](#) ). The defense also attempted to cite then

**President Bush**

who commuted

**I. Lewis "Scooter" Libby's**

two-and-a-half year sentence as a reason for the shorter sentence.

**U.S. District Judge Jeffrey White**

, known for giving stiff penalties, told the prosecution and defense to come up with a longer term for Ellerman's sentence. As for citing "Scooter" Libby's commuted sentence, White said, "If Mr. Ellerman is dissatisfied with his sentence, he should seek a commutation from the president."

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In the federal system, parole is no longer available, as federal sentencing guidelines apply instead. In federal cases, there is something called "supervised release." The length of a supervised release term is suggested by the sentencing guidelines, but in the end it's decided by a judge. Probation is available only in limited circumstances.

In the end, Ellerman was sentenced in July of 2007 to **30 months in prison**. As part of the sentencing, White did not impose a fine, but rather required Ellerman to make

### **10 presentations to law students**

in an effort to dissuade future lawyers from violating the rules of the court. As White said at sentencing, "Word has to go out to attorneys out there if you're not honest with the court and play by its rules, you're going to pay the price." Adding, "This affected, and infected, every aspect of the judicial system."

As mentioned, Ellerman's case is one of the more curious in the BALCO investigation. It is his prison sentence, and required presentations that are part of a story that has not been highlighted fully.

Ellerman self-surrendered on **September 13, 2007** to begin his 30-month sentence at a minimum security Federal prison in Lompoc, California. At the time, Ellerman was scheduled for release on **March 13, 2010**.

And yet, quietly, and unreported till now, **Ellerman is now out of prison**. It is unknown at the time of publication whether he has conducted any of the required law school presentations.

[According to records from the Federal Bureau of Prisons](#) , Ellerman was released on **January 16th of this year**

**after only serving 16 months of the 30 months sentence, 14 months early**

. Why Ellerman was released early is unknown at this time, but there are at least two possibilities.

Ellerman could have been released early as part of the **Second Chance Act**. The Second Chance Act is "federal legislation designed to improve outcomes for people returning to the

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community from prisons and jails.” On April 9, 2008, President Bush signed the Second Chance Act into law ( [Publi](#)

[c Law 110-199](#)

). The law allows federal prisoners to serve up to the final 12 months of their sentence in a half-way house. Ellerman seems to fit the eligibility criteria of not having committed a violent crime and be over the age of 45 (Ellerman is currently 46). Any decision regarding early release through the Second Chance Act is made by the Bureau of Prisons Regional Office, and written approval by the corresponding prison warden.

Ellerman might also have been eligible for the **Residential Drug Abuse Program** (***NOTE: See Update***

*above. Ellerman was indeed released as part of this program*)

. As part of Ellerman’s plea, he cited the pressure of the case, along with alcohol and cocaine use as the reasoning for leaking the grand jury transcripts to Fainaru-Wada and Williams. As with the Second Chance Act, prisoners can be released up to 12 months early to a half way house as part of Comprehensive Residential Drug Abuse Program (RDAP). For Ellerman to have been eligible, he would have had to have taken part in a prison-based drug rehabilitation program, first..

While Ellerman’s release from prison is not known to have been reported to date, questions remain as to why he only served a small portion of his sentence. It is believed that he is residing again in Sacramento, but as to whether he is part of any half way house program is unknown.

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**Maury Brown** is the Founder and President of the [Business of Sports Network](#) , which includes The Biz of Baseball, The Biz of Football, The Biz of Basketball and The Biz of Hockey. He is available for hire or freelance

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