



Get Tickets: Sacred Cod

Few legal options left for Tom Brady to keep fighting 'Deflategate' suspension

E-MAIL

FACEBOOK

TWITTER

GOOGLE

LINKEDIN

49

By Matt Rocheleau

GLOBE STAFF APRIL 25, 2016

At this point, it seems it would take the legal equivalent of a last-second Hail Mary in blinding snow for Tom Brady to avoid serving a four-game suspension for his role in the Deflategate case.

"The door's not completely shut. But the opening is narrowing significantly," said Martin W. Healy, chief legal counsel for the Massachusetts Bar Association.

On Monday, a panel of three judges from the US Court of

Appeals for the Second Circuit in New York voted 2-1 to reinstate Brady's suspension.

Brady's attorneys still have options to fight the case, but it's highly unlikely they will ultimately succeed, Healy said.

Brady's legal team could request that the Second Circuit court grant what is called an en banc hearing, which would have all of the judges at the court hear the case, instead of just the three-judge panel.



Brady must serve 'Deflategate' suspension, appeals court rules

Tom Brady must serve a four-game "Deflategate" suspension imposed by the NFL, an appeals court ruled.

But Healy said that en banc hearings are rarely granted. Such hearings are usually reserved for important and wide-ranging legal matters that have been in dispute repeatedly over many years.

If the request for an en banc hearing is denied, Brady's attorney's have one additional avenue they

could pursue: filing a certiorari petition, or asking that the United States Supreme Court take up the case.



But that would seem to be an even less likely scenario.

“The Supreme Court has broad discretion to take up any legal case it decides to, but it’s usually questions of law that circuit courts around the country have struggled with for years,” said Healy.

The dispute, while undoubtedly of great interest to tens of millions of football fans, “doesn’t strike me as a topic of great import to the Supreme Court,” he said.

Healy said that if Brady’s attorneys pursue any further legal recourse, they would almost definitely request a court order that Brady not have to serve the suspension while his case is still pending. And that could mean that he would still start the season uninterrupted while the case crawls forward.

“It wouldn’t make sense for Tom Brady to be held to the punishment if the decision is still in dispute,” said Healy.

Healy said different courts have different rules governing the time frame around deciding on requests for en banc hearings or certiorari petitions, but generally, “It’s not something that’s going to happen in an expeditious fashion.”

“It could take probably another year for the matter to be decided as to whether or not an en banc matter would be heard or not, and if it’s ‘yes’ then you have a whole procedure . . . that could take another six months or a year.”

Michael McCann, a sports law analyst for Sports Illustrated who is a professor at the University of New Hampshire, said that if a court approves a request to stay the punishment until the case is resolved, Brady “might be able to play the whole season” while the matter plays out.

McCann said that the odds are not looking good for Brady, but didn’t rule out the possibility that the quarterback and his attorneys could pull off an upset victory.

“It’s certainly possible,” he said. “Factors that might favor Brady include that it was a split decision. It was 2-1 and not 3-0.”

“And, also that it was the chief judge who had the dissenting opinion,” added McCann. “This is a respected, seasoned judge with an authoritative take.”

Marc D. Greenbaum, a labor and employment professor from Suffolk University, was more skeptical. He said he doubted the courts would grant a stay of the suspension.

Greenbaum also said Brady has virtually no hope now of winning the legal battle. “The next step is to hope Jimmy Garoppolo has a good training camp,” he said.

More ‘Deflategate’ coverage: →

- **Brady must serve ‘Deflategate’ suspension, appeals court rules**
- **Read the ruling that reinstated Tom Brady's Deflategate suspension**
- **Key takeaways from the ruling**
- **Shaughnessy: Patriots brought this overpunishment on themselves**
- **Jimmy Garoppolo now in line for his first NFL start**
- **Few legal options left for Brady to keep fighting ‘Deflategate’ suspension**
- **Read the dissenting opinion in the ‘Deflategate’ case**
- **The NFL, NFLPA's statements on the ruling**
- **NFL fans react to Deflategate court decision**
- **‘Leave Tom Brady alone,’ Donald Trump says in R.I.**
- **Timeline: The Deflategate floodgates**

Matt Rocheleau can be reached at matthew.rocheleau@globe.com. Follow him on Twitter @mrochele.

Get [Today’s Headlines](#) from the Globe in your inbox:

[Privacy Policy](#)

SHOW 49 COMMENTS

Stay updated, right in your news feed.

Top 10 Trending Articles

Most Viewed

Most Commented

Most Shared

Why do so many veterinarians commit suicide?

Red Sox sweep 4-game series from Yankees

On Football: Concern now is for injured Jimmy Garoppolo

Hillary Clinton needs yet another comeback moment

FBI pulls over car, questions five people in NYC blast invest...

Christopher L. Gasper: Jacoby Brissett last man standing fo...

Learn More

Ayotte faces uphill battle against Hassan and N.H. history

[SIGN UP FOR NEWSLETTERS](#)

Developer Don Chiofaro scales back Boston tower plan

MY ACCOUNT

MANAGE MY ACCOUNT

This time, Emmy voters (mostly) get it right

DOWNLOAD CUSTOMER SERVICE APP

Authorities name man they want to question in NYC blast

SOCIAL

FACEBOOK

TWITTER

GOOGLE+

CONTACT

HELP

FAQS

GLOBE NEWSROOM

ADVERTISE

MORE

EPAPER

NEWS IN EDUCATION

ARCHIVES

PRIVACY POLICY

TERMS OF SERVICE

TERMS OF PURCHASE

YOUR AD CHOICES

WORK AT BOSTON GLOBE MEDIA

