

July 23, 2007

Honorable John Conyers

Chairman of the House Judiciary Committee United States House of Representatives

2426 Rayburn Building

Washington, DC 20515

Honorable Patrick Leahy

Chairman of the Senate Judiciary Committee United States Senate

433 Russell Senate Office Building

Washington DC 20510

Re: Prosecutorial Independence/Selective Prosecutions

The Politicizing of Department Of Justice Dear Congressman Conyers and Senator Leahy:

It is with great interest that I read the articles regarding your Committees' investigations into the alleged "politicizing" of the Department of Justice. I have a personal interest in the subject as I am one of the defendants that has had my professional life ruined because of partisan politics and the determination of this administration to establish political control of all facets of the government, local/state/federal; judicial/legislative/executive; agencies/departments/commissions of government Like the case against former Governor Siegelman of Alabama, the Department of Justice in the Southern Division of Mississippi has used its resources to persecute and prosecute key democratic donors and politicians in an effort to establish the much desired control and to ensure that "tort reform" protects the corporate interests of the governing party.

In Mississippi, Jim Herring, the head of the state Republican Party, called for Democratic Gov. Ronnie Musgrove to return \$183,517 in contributions Minor and his Biloxi law firm have given Musgrove over the past 16 years. Musgrove won a state Senate seat in 1987, became lieutenant governor in 1995 and was elected governor four years later. See the attached copy of The Clarion Ledger June 30, 2003 article entitled "Diaz case adds fuel to election campaigns"

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For over four (4) years my co-defendants and I and our attorneys have been trying to make others aware of the abuses of the Department of Justice and the selective prosecution that was our prosecution and trial. To give credibility to my position I enclose for you a copy of the letters I sent my representatives in 2004 on this issue along with the referenced attachments. As I was then, I will be now, open and honest. When I sent my letters in 2004 I was one of the accused. Today I stand convicted of federal charges that stemmed from the politicizing of the Department of Justice. Said politicizing and the use of that office to gain political control of the State of Mississippi's executive, judicial and legislative branches has resulted in grave injustices, my co-defendants and I are now convicts facing sentence, guilty only of what at their worst were ethical violations. As prosecution witness Richard Scruggs testified at the 20073 re-trial, he too had engaged in the same type of conduct for which I and my co-

defendants were convicted, yet Mr. Scruggs has not been prosecuted. Mr. Scruggs is the brother-in-law to U.S. Senator Trent Lott and a prominent trial attorney. (See the enclosed portions of the daily copy trial transcript of Scruggs' testimony enclosed herein.4) To provide you with a brief history, from 1995 to 2000, I was a state court judge (Second District Circuit Court), the youngest elected to serve in Harrison/Hancock/Stone Counties of Mississippi. During my tenure I was one of the few black judges to hold the bench and after my retirement in 2000 in an effort to give racial balance to the judiciary, my name was mentioned as a potential nominee to the federal bench and even for the U.S. Attorney post. While on the bench my policies were considered liberal by some, Mr. Lampton, the U.S. Attorney, being one. Mr. Lampton, the U.S. Attorney that instigated, pursued, sought the indictment and prosecuted my case, shares that view as he looked me in the eye and told me during the initial interview that I would not be involved in the matter if I "had not been so liberal while on the bench." I retired from the bench in 2000, long before the beginning of the investigation that resulted in my indictment and subsequent conviction.

The U.S. Attorney responsible for the investigation and the subsequent indictments and conviction, Dunn Lampton, unsuccessfully ran for Congress on the republican ticket in 1998 and 2000. The attachment to my 2004 letters, the Conflicts of Interests Outline that is enclosed herein, sets forth various blatant ethical breaches and political, social, familial and personal conflicts of interests that U.S. Attorney Dunn Lampton had relative to the prosecution of my case. He has family members that were successfully sued by my co-defendant, the alleged mastermind of this bribery conspiracy, Mr. Paul Minor. Mr. Minor is/was a very successful trial lawyer in our state, he was one of the many plaintiff's lawyers involved in the tobacco litigation that resulted in the huge settlements with several states, including Mississippi. As I said, Mr. Minor had successfully sued the U.S. Attorney's family members for millions.

The fever of tort reform and anti "jackpot justice" was at its highest when this investigation began and the governor's race was just heating up. (One of Lampton's family members and a campaign contributor, a doctor, has been a named defendant in at least five (5) prescription drug, multi plaintiff lawsuits - the plaintiff trial lawyers were made out to be the evil of society and Mr. Minor was a very successful trial lawyer.) Chapters Four, Seven and Eight of Stephanie Mencimer's book Blocking the Courthouse Door: How the Republican Party and Its Corporate Allies Are Taking Away Your Right to Sue give one some idea of the atmosphere here at the time this investigation began and why this investigation was given life.

Attached for your reference is the statistic analysis as prepared by Donald Shields and John Cragan, two professors of communication studying the prosecution patterns of this administration. Shields and Cagan have compiled a database of investigations and/or indictments of candidates and elected officials by U.S. attorneys since the Bush administration came to power. Their study entitled The Political Profiling of Elected Democratic Officials: When Rhetorical Vision Participation Runs Amok examined 375 cases and found that 10 involved independents, 67 involved Republicans, and 298 involved Democrats. The authors opine that the main source of this partisan tilt was the huge

disparity in investigations of local politicians, in which Democrats were seven times as likely as Republicans to face Justice Department scrutiny. My name can be found on page four of Appendix C of this study.

During the course of the investigation and years prosecuting this case, the Department of Justice threatened numerous witnesses involved in my case with indictment relative to "conduit campaign contributions" and investigated several trial lawyers involved in the litigation filed against the prescription drug companies and the doctors involved. The stench of corruption was released in the air in an effort to get the pro-tort reform candidates elected, including the former head of the RNC and one of the most well known lobbyists in D.C., Haley Barbour. While preparing for my defense it was discovered that the U.S. Attorney had various conflicts of interests relative to the prosecution and various motions to dismiss the indictment on the grounds of selective prosecution were filed. The Court refused to allow us a hearing on the issue and denied the motions. The Court also denied us the opportunity to present this as part of our defense at trial. The Conflicts of Interests Outline<sup>5</sup> that is enclosed herein (and all supporting documents as found on the CD also enclosed) were proffered into the record, but the jury was not given the opportunity to consider the tainted motives of the prosecution.

The irony in this matter is that the indictment alleged that I used my "position as judge to take official actions and use his official authority and position to provide an unfair advantage" over litigants opposed to his co-accused. Yet, after reviewing the "conflicts of interests" you will see that it would appear that USA Lampton has done the same thing as it relates to contributors to his campaign and the investigation that resulted in this indictment.

I would also point out that USA Lampton was fined by the FEC for, among other reasons, his failures to properly disclose the identities of contributors and receiving monies from an illegal PAC. Though the investigation by the FEC into his violations of the federal campaign finance laws and regulations was on going after he was nominated to the post of U.S. Attorney, he failed to include the investigation in the biographical sketch he had to prepare relative to his nomination. He also continued to accept contributions to his unsuccessful campaign funds and actually used the money collected after his nomination to return money to the unauthorized PAC, to pay the IRS and to pay his fines to the FEC. It was not until he obtained an ethical opinion from the DOJ in 2002, that he terminated his campaign.

In April, the jury convicted me and my two co-defendants. I face sentencing in August. I don't have forty-four (44) current and former Attorney General's to make my case to you. Had it not been for the sacrifices of my attorney, I would have had to defend myself or settle for a public defender. There was no huge defense team made available to me and none that I could afford. I write to you so that you can consider my case with the other cases under review for potential selective prosecution, abuse of office due to the effort to politicize the Department of Justice.

After reviewing the enclosed materials, I believe the adage "he who lives in a glass house" will come to mind. The personal, social and political relationships that the federal prosecutor has relative to the

prosecution clearly reflect that the prosecutor is ethically challenged and his actions have violated DOJ policies and FEC laws as well as our constitutional rights of the accused. I truly believe that my prosecution was part of the efforts of the republican administration and it's appointed U.S. Attorneys to weaken the democratic party's credibility in the state of Mississippi and thus, pave the way for the republican control of all state and federal elected offices.

Should you have any questions or desire any additional information or clarification of any of the issues involved herein please feel free to contact me directly. If you have any suggestions relative to the steps that I can take regarding this injustice, please let me know. I thank you in advance for taking the time to review these materials.

Sincerely yours,  
John H. Whitfield  
Attorney at Law  
JHW/mmh

Enclosures (see page of numbered notes attached hereto)

cc: Honorable Tammy Baldwin, Member, Committee on the Judiciary  
Honorable Linda T. Sánchez, Chairwoman Commercial and Administrative  
Law Subcommittee

Honorable Artur Davis, Member, Committee on the Judiciary Honorable  
Edward M. Kennedy, Member Senate Judiciary Committee Honorable Joseph  
R. Biden, Jr., Member Senate Judiciary Committee

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