October 22, 2007

House Judiciary Committee

Dear Committee Members:

I am writing to you because you are the only people who can help me prove that the Bush Justice Department's prosecution of me and Justice Oliver Diaz, Jr., and Judges Wes Teel and John Whitfield was politically motivated. I believe we were selectively prosecuted because of my political affiliation with and contributions to the Mississippi and National Democratic parties. In order to explain to you why I believe that we were the subject of selective prosecution as part of what now appears to have been a nation-wide conspiracy by the Bush Justice Department to dry up funding for Democratic candidates, I must first give you some background of our case.[1]

Prior to my prosecution, I was a successful attorney on the Mississippi Gulf coast specializing in mass tort litigation, including asbestos cases, cases against Bridgestone-Firestone, Ford Motor Company, and probably most notably, lawsuits against the major tobacco companies.[2] For example, the tobacco litigation generated more than $70 million dollars in fees for my law firm. I was active in both the Mississippi and American Trial Lawyers Associations. Because my father, Bill Minor, was a journalist and civil rights activist, I was brought up to take the plight of the disenfranchised and politically oppressed seriously. As a result of my father's influence as a role model, I became actively involved in politics and was cofounder and chairman of the board of the South Mississippi Legal Services Association for years until it was disbanded in 2002 under the Bush, Jr. administration.

From 1996-2003, I gave more than a half-million dollars to Democratic candidates both locally and nationally, including a substantial sum to John Edwards so that he could run for president.

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[1] Roger Shuler, a journalist from Alabama, has for the last month or so written over forty articles giving a factual and legal account of my case. He sets forth the history and the bizarre legal rulings of the judge in considerable detail. Anyone who is interested in the case can read Mr. Shuler's analysis on line at his Internet blog, the *Legal Schnauzer*. In addition to providing an excellent analysis of my case, Mr. Shuler has also written articles on former Gov. Don Siegelman's case, Georgia Thompson's case, and the cases of others whom the Bush Justice Department may have selectively prosecuted. Mr. Shuler is an extraordinary example of the unpaid citizen journalist who now exists on the Internet. I cannot thank him enough for taking the time to interest himself in my case to the extent of reading the thousands of pages of transcripts and spending the time to research and analyze on his own the confusing legal issues of my case.

[2] Roger Shuler notes that both Don Siegelman and I have a "fascinating connection which involves a history of taking on the tobacco industry and coming out on top." *Legal Schnauzer*, "Siegelman, Minor, and Tobacco," October 2, 2007. **Index 16**.

As a result of the success of the mass tort litigation in Mississippi, in 2000 the U.S. Chamber of Commerce made a decision to target members of the Mississippi Supreme Court who were perceived to be anti-business and to elect judges who favored tort reform. In an unprecedented move,[3] the Chamber spent more than one million dollars supporting four pro-business judicial candidates all the while attempting to disguise the source of its funds. The *Wall Street Journal's* Jim VandeHei described the Chamber's tactic in an article entitled "Political Cover: Major Business Lobby Wins Back Its Clout By Dispensing Favors—Some Members Can Hide Behind Chamber's Name to Pursue Private Ends—Targeting 'Unfriendly' Judges", *Wall Street Journal,* September 11, 2001, p. A1. The Chamber solicited major corporate funders who had been plagued by class-action suits, tort liability and other high damage legal awards, and asked them to fund an elections effort to defeat attorneys general and judges viewed as pro trial lawyer. The Chamber would cloak the identities of the corporations and would do its best to keep its own involvement from the public. Public Citizen, Tom Donohue U.S. Chamber of Commerce President Oversees Renegade Corporations While Pushing for Limits to Corporate Accountability, Feb. 2005. *See also,* Scott Horton, "A Minor Injustice", *Harper's Magazine,* October 3, 2007, **Index 4**.

A particular target of the Chamber was Justice Oliver Diaz, Jr., a Supreme Court Justice who had been appointed by Democratic governor Ronnie Musgrove to fill a vacancy on the Court. Ads paid for by the Chamber began to appear attacking Diaz for taking more than $100,000 in trial lawyer donations. Diaz's opponent, Keith Starrett, with the help of pro-business interests and the Chamber, outspent Diaz by more than $500,000, making the 2000 judicial election by far the most expensive in Mississippi history at that time. Diaz beat Starrett; however, by the end of the campaign, he was deeply in debt. I played an active role in raising money to help Diaz retire his campaign debt, including signing the loan guarantee which became the subject of my later prosecution and that of Justice Diaz by the DOJ.

At this point, it might help to understand that until 2003 about half of Mississippi's Democratic Party money came from trial lawyers. For example, in the 1999 gubernatorial campaign, Mississippi trial lawyers donated as much to the Democratic candidate Ronnie Musgrove's campaign as did the Democratic National Committee. Of the $379,500 donated by the trial lawyers, $112,000 of which came from me.

In 2001, President Bush appointed Dunn Lampton to be the United States Attorney for the Southern District of Mississippi. Lampton had previously run twice for Congress as a Republican, but had not been elected. Lampton had been financed in the races by companies which I had successfully sued, including companies owned or run by Lampton's family. In addition, Lampton had supported Starrett in his unsuccessful bid to unseat Justice Diaz. Lampton himself had pled guilty to violations of FEC rules on disclosure and reporting.

[3] Prior to that time, judicial races in Mississippi had gathered almost no attention or monetary contributions.

In October of 2002, just in time for another judicial election, news leaked to the press that I, other trial lawyers, judges and Justice Diaz, were being investigated by the FBI and Lampton's office for campaign finance violations. Trial lawyers became afraid to contribute, and candidates were afraid to take their money. As one writer put it, "Trial-lawyer money had become radioactive." Mencimer, Stephanie, *Blocking the Courthouse Door*, Free Press 2006, p. 109 (**Index 2**). Pro-business interests were able to seat six pro-business candidates on the Mississippi Supreme Court.

On July 25, 2003, ninety days before the gubernatorial election, I was indicted with Justice Diaz and two Gulf coast lower court judges, Wes Teel, and John Whitfield, on conspiracy, racketeering, honest services mail fraud and deprivation of honest charges stemming from loan guarantees I had made to Justice Diaz and the other two judges. Loan guarantees are not required under Mississippi law to be reported on any disclosure form.

Dunn Lampton played an active role in presenting the case to the grand jury. The indictment was signed by Noel Hillman, the then head of the Public Integrity Division, the same Noel Hillman, who signed the Siegelman-Scrushy indictment. The indictment came just in time to be used in the 2003 gubernatorial campaign to unseat Democrat Ronnie Musgrove in favor of Republican Haley Barbour, the former Chairman of the National Republic Party, and a successful lobbyist on behalf of the tobacco industry ~~the~~ very industry which was now having to pay billions of dollars because of the lawsuit which I and other trial lawyers had been involved in. As we all now know, Hillman was rewarded by President Bush for his public service by a seat on the federal bench. Approval for the investigation was given by then head of the DOJ criminal division, Michael Chertoff, who was first rewarded by Bush with a seat on the Court of Appeals and now serves as Secretary of the Department of Homeland Security.

My campaign contributions to Ronnie Musgrove and the fact that the government had indicted me for "bribing" judges was the subject of television commercials and full page full color ads which were widely distributed on behalf of Republican candidate Haley Barbour in the 2003 gubernatorial campaign. (**Index 52**). In November of 2003, Barbour was elected governor, and early in 2004, one of his first acts as governor was to call a special session of the Mississippi legislature which passed legislation effectively wiping out mass tort litigation and capping noneconomic and punitive damages in almost all tort cases.

As a result of the 2003 indictment, Justice Diaz was suspended from the Mississippi Supreme Court while his federal charges were pending, leaving that Court with a 6-2 pro-business majority. The disappearance of trial lawyer money seriously crippled the Mississippi Democratic Party. In the 2003-2004 election cycle, the Mississippi Democratic Party raised only $450,000; whereas, the Republican State Party raised $4 million.

In early 2005, in a trial lasting three months, Justice Diaz was acquitted of all charges. I was also acquitted on the six charges involving Justice Diaz. The jury failed to reach a

verdict on other charges against me and against the other two judges. The indictment's allegations that I guaranteed a loan to Justice Diaz in order to gain an unfair advantage from him were ludicrous from the outset. As the government was well aware, Justice Diaz recused himself from every case handled by my firm. The only case which Justice Diaz sat on which even remotely involved me was one involving my father who had been sued for libel in his capacity as a journalist by a racist ex-Highway patrolman who had been paid a half-million dollars by Republic operatives to investigate Bill Clinton in the now discredited Whitewater investigation. I did not represent my father. The Mississippi Supreme Court in an 8-0 opinion, joined in by Diaz, affirmed the trial court's dismissal of that case. *See*, Roger Shuler, "Mississippi Churning, Part IX," *Legal Schnauzer,* September 26, 2007 (**Index 22**).

As soon as the verdict came down exonerating Justice Diaz, Lampton unsealed a new indictment against Diaz and his wife for tax evasion. Rather than run the risk of having both her husband and herself in jail thereby depriving their children of both parents, Mrs. Diaz pled guilty to tax evasion in return for a sentence of probation. In 2006, Justice Diaz was acquitted of tax evasion and finally was able to return to the Mississippi Supreme Court. By indicting Justice Diaz on frivolous charges, the Chamber of Commerce was able to accomplish what it had not been able to do through the electoral process--a duly elected Supreme Court Justice was effectively unable to sit on the Court for three years while those charges were pending against him. Scott Horton in *Harper's* suggests that the purpose of prosecuting Diaz was to keep him off the bench "shifting the Mississippi Court's partisan balance. Seen this way, what the Justice Department did was an assault on the political franchise of Mississippi voters and an attack on the State's Constitution, all pursued for partisan political purposes." Scott Horton, *Harper's Magazine*, "A Minor Injustice: Why Paul Minor?" October 5, 2007 (**Index 5**).

In the spring of 2007, the other two judges and I were retried. This time all three of us were convicted. I was sentenced to serve 11 years and to pay fines and restitution in excess of 4.25 million dollars. The fines, incidentally, were 15 times what the federal sentencing guidelines called for.

It is important to understand that in Mississippi at the time I made the loan guarantees to the judges, it was not against the law in Mississippi for lawyers to do so. Moreover, it was common practice for attorneys to make loan guarantees to judges and to appear before judges to whom they had made political contributions. In fact, one such attorney who did so was Richard "Dicky" Scruggs, who is the brother in law of Republican Senator Trent Lott, who at the time was the Senate Majority leader in Congress. Interestingly, Lampton hired Trent Lott's Assistant Chief of staff as his own chief of staff~~th~~ereby giving Lott, and possibly the White House, access to the investigation and prosecution.

In addition, at the beginning of the investigation into my campaign finance activities, special FBI Agent Matthew Campbell, a forensic accountancy expert, was in charge of the investigation. When he questioned why Scruggs was not also being investigated, he was removed from the investigation and transferred to Guantanamo Bay. *See*, Scott

Horton, "A Minor Injustice: Why Paul Minor?" *Harper's Magazine*, Oct. 5, 2007 (**Index 5**).

Special Agent Kevin Rust was placed in charge of the investigation despite his personal contributions to Keith Starrett's failed judicial campaign against Justice Diaz. Scott Horton of *Harper's Magazine* reports that under the FBI's own ethical restrictions, Rust's conflict of interest should have disqualified him from the investigation. Instead, however, he led it. The *Biloxi Sun Herald* quoted Trent Lott as acknowledging that he had had discussions with prosecutors involved in Scrugg's case. Later, however, he claimed that his comments were a "mistake." Scott Horton, "A Minor Injustice: Why Paul Minor?" *Harper's Magazine*, Oct. 5, 2007 (**Index 5**).

In any event, Scruggs was not prosecuted although he did the same thing which I was convicted of. Scruggs, however, had contributed $250,000 to the Bush-Cheney presidential campaign and GOP in 2002. The Federal Election Commission Report of September 14, 2000, shows that Scruggs and his wife gave over $500,000 to various Republican causes. Scruggs also guaranteed a $500,000.00 loan to Republican Lieutenant Goveernor Amy Tuck. Tuck was a leader in the effort for tort reform. Scott Horton, "A Minor Injustice: Why Paul Minor?" *Harper's Magazine*, Oct. 5, 2007 (**Index 5**).

In other words, when the Republican led Justice Department looks at my contributions to Democrats, they see fraud. When they look at Scruggs' donations to Republicans, they see no crime at all. Scruggs' immunity from prosecution might be explained if he had been offered some form of amnesty by the government for his cooperation in the investigation against Minor, but Scruggs and the U.S. Attorney's office denied Scruggs received favorable treatment in return for cooperation. Scruggs, in a moment of truth, at the trial denied he needed it. ~

Moreover, former Chief Justice Ed Pittman, who was a sitting Mississippi Supreme Court justice in 2000 was the beneficiary of a loan guarantee from me. Justice Pittman, was not indicted, but Justice Diaz was. Justice Pittman, however, was pro-tort reform. Justice Diaz was perceived by the Bush Justice Department as anti-tort reform (**Index 19**).

Roger Shuler, in the *Legal Schnauzer, "Mississippi Churning, Part XII,"* October 1, 2007 **(Index 19**), that double standards seem to apply to Supreme Court Justices who are conservative and advocates of tort-reform. He cites a case where Archie Wayne Courtney won a $1.8 million dollar judgment from a bank. The Mississippi Supreme Court reduced the award to a mere $45,000.00. The opinion was authored by conservative, tort-reform advocate Chief Justice James Smith. Courtney's attorney filed a motion for rehearing after learning that Smith's campaign committed had borrowed $55,000.00 from a bank that was part of the same chain Courtney had successfully sued. For some inexplicable reason, the Bush Justice Department sees fraud regarding Justice Diaz and me although he did not sit on my cases, but does not see it in the case of Justice Smith although he not only sat on the case, but actually authored the opinion. Shuler also points to another case where two

Supreme Court Justices sat on a case even though the opposing party had made political contributions to their campaigns (**Index 19**).

Over the past few months, it has become increasingly clear that Karl Rove, political strategist for Bush and other Republicans, conceived a strategy to dry up political money to Democratic candidates which included using the Justice Department as an instrument to prosecute prominent Democrats, particularly trial lawyers.[4] What this Committee must ask itself in the pursuit of truth is can it be coincidence that nearly every major attorney donor to John Edwards' campaign has been prosecuted by the Bush Justice Department? *See,* Richard Opel & Glen Justice, "Developing the Strategies' Fund Raising." *New York Times,* July 26, 2005. The *Times* points out that I was the tenth largest donor to Edwards with donations totaling $129,000 and that almost every major attorney contributor to Edwards has been the target of an aggressive DOJ investigation. In my case, in January of 2003, 30 FBI agents raided my law office under the pretext of obtaining documents regarding the judicial investigation and seized all of my documents and financial records regarding contributions and fund raising efforts on behalf of the state and national Democratic Party – in particular those regarding John Edwards. As a result, my family and I have been threatened with an indictment for campaign finance violations.

Can it be coincidence that the prosecutions of other Democrats, including Don Siegelman, former governor of Alabama, and Georgia Thompson, an innocent Wisconsin public servant, were timed to coincide with hotly contested political campaigns in violation of the Justice Departments own internal operating guidelines which require the department to avoid such an appearance of impropriety? Adam Cohen of *The New York Times,* notes the timing of the prosecutions in an editorial dated October 11, 2007, and suggests that the charges against Gov. Siegelman, Georgia Thompson, and me may have been "attempts to use the Justice Department to get Republican governors elected." (**Index 1**).

Can it be coincidence that United States Attorneys who had given loyal and honest public service to this country were fired in what has now been disclosed as a concerted plot to rid the Justice Department of people who were not "loyal Bushies" and that that plot was orchestrated again by Karl Rove and came directly from the White House?

Questions such as this are being asked all over this country by the press and honest citizens of this country are deeply distressed by the notion that the government could engage in selective political prosecutions of its citizens. This Committee, and only this Committee, can obtain answers to these questions which need to be answered in order to restore faith to those citizens that their government will not stand for such behavior by its public servants whether they are United States Attorneys or the President of the United States and his highest advisors.

I was convicted on vague charges that I obtained an "unfair advantage" from the two judges who sat on two cases years after I made the loan guarantees. I should note that during the

[4] *See,* Schuler, "All Roads Lead to Rove," **Index 42.**

interval, my firm could have brought hundreds of cases before those very same judges but did not. From the outset, the U.S. Attorney's office announced that it did not intend to prove that there was a "quid pro quo" involved because of the guarantees. This is so despite the Justice Department's own guidelines which dictate that it be able to do so before bringing such charges against lawyers and judges. Scott Horton in an article entitled "A Minor Injustice: Why Paul Minor?" published in *Harper's,* October 5, 2007 (**Index 5**), points out that "[s]everal public integrity prosecutors with whom I conferred told me they [the charges] were unfamiliar of any similar case raising charges quite like these. They were called 'strange,' and 'perhaps unique' in failing to allege a "quid pro quo." Horton points out that Adam Liptak of the *New York Times* observed on March 15, 2004: "The central charge against the two men is so convoluted that setting it out requires a diagram . . . ."

In fact, the jury in our case was instructed that the government need not show a "quid pro quo" in order to convict. In other words, the government was not required to show that the judges were "bribed." Astonishingly, the jury was told that "You may find specific criminal intent even though you may find that the rulings were legal and correct, that the official conduct would have been done anyway, that the official conduct sought to be influenced was lawful and required by law, and that the official conduct was desirable or beneficial to the public welfare," as quoted in Roger Shuler, "Mississippi Churning, Part VI," *Legal Schnauzer,* September 20, 2007 (**Index 28**).

In the first trial, the trial judge allowed us to present evidence showing that the rulings made by Judges Teel and Whitfield in the two cases were grounded in the law and thee facts. However, in the second trial, the rules had changed, and we were not allowed to show that the results of the two cases were legally justified and that the suits were meritorious. *See,* Roger Shuler. "Mississippi Churning," Parts VII and VIII, *Legal Schnauzer,* September 24 and 25, 2007 (**Indices 24 and 23**) for an analysis of why the rulings by Teel and Whitfield were correct.

Furthermore, I was not allowed to show, as I had been in the first trial, that over the years I had made loans or guaranteed loans to other people, including lawyer friends, so that making the loan guarantees to my friends was not unusual or done corruptly. In short, from the first trial to the second trial, the trial judge had changed the rules dramatically to our detriment.[5]

One might well wonder why the dramatic turn around by the judge. Horton in his October 5, 2007, *Harper's* article describes the judge's conduct as "aberrational." (**Index 5**). I contend that the explanation of the judge's strange rulings may lie in the fact that while the second trial was pending, the Bush White House was considering whom to appoint to the Fifth Circuit Court of Appeals from the State of Mississippi and that Judge Henry T. Wingate, the trial judge in our case, was a likely candidate for that appointment. By now, it is no secret that only "loyal Bushies" needed to apply for political appointments of any kind.

[5] Roger Shuler's blog, the *Legal Schnauzer,* discusses the rulings in some detail.

Judge Wingate, is the first and only Black judge appointed to the federal bench from Mississippi. He was appointed by a Republican President. At the time of the second trial, the Bush White House was under attack by civil rights groups and others for nominating several white candidates from Mississippi for judgeships on the Fifth Circuit. Those persons had experienced confirmation difficulty. During the second trial, there was considerable pressure to appoint a Black from Mississippi for a judgeship on the Fifth Circuit. In short, Judge Wingate had considerable incentive to curry favor with the Bush White House during the second trial proceedings. For whatever reason, the judge's rulings were of considerable assistance to the government in our prosecution.

For example, I filed several motions alleging selective prosecution and requesting that the United States Attorney's office be recused from the case because of U.S. Attorney Dunn Lampton's involvement in securing the indictment against me[6] and in prosecuting the case. I had sued Lampton's family's companies successfully obtaining large monetary awards against them and in addition, had helped finance Justice Diaz's judicial campaign against Lampton's good friend Keith Starrett. Despite, clear precedent requiring Lampton's office to recuse themselves from my case, Judge Wingate refused to rule on the recusal motions. Furthermore, he refused to rule on my motions alleging selective prosecution because of my political activities and refused to allow my trial attorneys access to government which might have proved my claim of selective prosecution. In short, unless this Committee helps me, and the other defendants similarly situated, gain access to the files, in all likelihood we may never be able to prove what happened to us.

Please help us. If the Justice Department has done nothing wrong and our prosecutions were not directed improperly by political operatives in the White House, then why is the Department so reluctant to give Congress the information it seeks? If the prosecutions were the result of political persecution, then the country as well as the defendants need to know so that this wrong can be righted. Help us please to find the truth.

1969, I volunteered to fight in Vietnam and was awarded the Bronze Star for my service. I love my country, and I have faith that its good people and the institutions of its government will in the end win out over those who have sought to destroy our justice system if the truth can be revealed.

Sincerely yours,
s/Paul S. Minor

Paul S. Minor
c/o Julie Ann Epps
504 E. Peace Street
Canton, MS 39046
(601) 407-1410

[6] Despite Lampton's conflicts, the grand jury transcripts reflect that Lampton presented the case to the grand jury.