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Committees
Committee on Ways and Means
Committee on the Judiciary
Committee on House Administration

United States House of Representatives

July 6, 2007

Honorable John Conyers, Jr.
Chairman, Committee on the Judiciary
U. S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515-6216

Dear Chairman Conyers:

It is my understanding that the Judiciary Committee plans to conduct a hearing regarding allegations of selective prosecution by the Department of Justice. I appreciate your willingness to engage this issue, and I am writing to encourage you to include within the inquiry the recent prosecution of former Alabama Governor Don Siegelman.

Siegelman was the target of a four year federal probe into influence-peddling by his administration and its allies. In 2004, after narrowly losing reelection, Siegelman was indicted in the Northern District of Alabama on charges related to the delivery of a state Medicaid contract. The charges were weak enough that they were dismissed at the start of trial.

In 2005, Siegelman was indicted again, this time in the Middle District of Alabama, on a broad array of corruption charges. In June, 2006, the jury returned a mixed verdict, finding him not guilty of 25 of the 32 counts against him. The remaining counts focused largely on one event: in 1999, an Alabama health care executive, Richard Scrushy, made a sizable contribution to a lottery referendum initiative backed by Siegelman. After making the contribution, Scrushy was appointed to a position on the state board awarding certificates of need to hospitals.

A variety of claims have arisen regarding the Siegelman case. It has been suggested that the case against Siegelman was unusually weak and uncorroborated. Only one witness testified that there was any linkage between the appointment of Scrushy and his contribution to the lottery initiative, and that individual professed to have no first hand knowledge. Despite the lengthy indictment, no government witnesses claimed to have direct knowledge that Siegelman had solicited or obtained favors or contributions in exchange for official actions: virtually all of the evidence of "cash for contracts" involved Siegelman staffers, and not the governor himself. (notably, all of the counts involving these claims were rejected by the jury).

Most explosively, an attorney who worked in the 2002 campaign *against* Siegelman has sworn an affidavit claiming that she participated in a November 2002 conference call in which an influential Republican claimed that Karl Rove had given assurances that Siegelman would be indicted. Prior to his service in the White House, Rove had an extensive history of involvement in Alabama elections, and maintains contact with a number of Republican contributors and operatives in my state.

Our committee has heard testimony that one former U.S. Attorney, David Iglesias, was pressured by a United States Senator to bring indictments against Democratic officials prior to the November 2006 elections. Another former U.S. Attorney, Jack McKay, testified that he was pushed by Republican officials to indict Democrats engaged in voter registration efforts during a governor's race in Washington. At least one U.S. Attorney, Steven M. Biskupic, was removed from a list of prosecutors to be terminated only after he indicted a Democratic appointee in the midst of a closely contested governor's race in Wisconsin. Finally, another chief prosecutor, Todd Graves, has testified to the Senate that he believes his termination was linked to a refusal to bring charges against local voting rights activists.

A claim of selective prosecution is not implausible in this Justice Department. In addition to evidence that prosecutors were fired for failing to bring cases that would bolster the Republican cause, the press has reported on several cases where the government's cases against Democratic officeholders were strained at best. I have referenced the Wisconsin prosecution of Georgia Thompson, where the Seventh Circuit summarily reversed a corruption conviction and denounced the prosecution case as "beyond thin", and I note the prosecution of a Democratic District Attorney in Michigan on charges related to a campaign contribution from a relative of a defendant for whom the DA sought a new trial. The case, which resulted in a swift acquittal, was marred by the complete absence of any proof connecting the contribution to the DA's actions.

The trading of favors for official acts is reprehensible, and stains the reputation of the political process. But it would shatter the system if a Justice Department built a culture in which prosecutors' career advancement depends on their willingness to press exotic legal theories that might advance the electoral interests of the Republican Party.

I am sensitive to the fact that the Siegelman case is on appeal. But an appellate court is not susceptible to being influenced by publicity in the way that a jury might be. I agree with the New York Times editorial of June 30, 2007 that the facts are suggestive enough that *United States v. Donald Siegelman* merits inclusion in the committee's inquiry.

Sincerely,



Artur Davis
Member of Congress