

THE TWO REDACTED PAGES

As I said earlier, the most interesting part of the Tatel opinion is the two-page section that remains redacted (thanks again to Jeralyn for making the opinion available), explaining why Fitzgerald suspects Rove perjured himself in his testimony about Novak and Cooper. I believe that section includes:

- An assertion that Rove lied when he testified that he responded to Novak's story about Plame by saying, "you heard that too?"
- A description of some way that Rove's testimony contradicts Novak's description that Rove promised to declassify the CIA report on Wilson's trip
- A description of Rove's presumably changing testimony about Cooper—and possibly a description about the magically rediscovered Rove-Hadley email
- A description of one more piece of involvement on the part of Cheney

The passage comes after the long passage explaining the Miller subpoena. That Miller passage follows this logic:

- Describes the two Miller calls
- Asserts that, given the other reasons to distrust

Libby's testimony, he may have lied about the Miller conversations, too

- Describes the Russert/Libby discrepancies—including the quotes from both men's grand jury testimony that lays out those discrepancies
- Describes proof Libby knew of Plame on July 8 using the Fleischer conversation
- Describes the potential discussion of Plame on Air Force Two and Cheney's other involvement
- Shows that Miller may provide the final piece of evidence for a perjury charge

One important point here is that the quotes from Libby's, Russert's, Ari's, and Cooper's Libby grand jury testimony are all used to support Tatel's argument that there is evidence of perjury. They're very narrowly selected quotes that pertain directly to the case on perjury. Therefore, it's safe to assume that the grand jury testimony that was unsealed today (including quotes from Novak, Armitage, and evidence pertaining to Cheney) also support an argument of evidence of perjury.

Which brings us to the passage on Rove that has just been unsealed. It starts by setting up that, according to both Armitage and Novak, Rove was involved in the Novak leak, all the while admitting that Armitage was also involved.

Although uncontradicted testimony indicates that Novak first learned Wilson's wife's place of employment during a meeting on July 8 with Deputy

Secretary of State Richard Armitage (see 8/27/04 Aff. at 18), Novak said in grand jury testimony that he confirmed Plameâ€™s employment with Rove (II-153-54), a longstanding source for his columns (II-121-22). According to Novak, when he â€œbrought upâ€ Wilsonâ€™s wife, â€œMr. Rove said, oh, you know about that tooâ€ (II-154) and promised to seek declassification of portions of a CIA report regarding the Niger trip, which Rove said â€œwasnâ€™t an impressive piece of work or a very definitive piece of workâ€ (II-158). In an October 2003 column describing his sources, Novak identified Armitageâ€™s comment as an â€œoffhand revelationâ€ from â€œa senior administration officialâ€ who was â€œno partisan gunslinger.â€ (II-20.) He referred to Rove simply as â€œanother officialâ€ who said, â€œOh, you know about it.â€ (II-20, 209-11.)

Upon reading Novakâ€™s October column, Armitage recognized himself as Novakâ€™s source and, as he told the grand jury, â€œwent ballistic.â€ (II-859-60.) He contacted Secretary of State Colin Powell to offer his resignation (II-862-64) and spoke the next day with FBI and Justice Department officials investigating the leak (II-878-79). â€œI was very unhappy at myself,â€ Armitage testified, â€œbecause I had let the President down, Iâ€™d let the Secretary down, and frankly, Iâ€™d let Ambassador and Mrs. Wilson down. In my view inadvertently, but thatâ€™s for others to judge.â€ (II-860.) [my emphasis]

Now this passage does two things. It lays out all the details thus far presented to the grand jury **by Armitage and Novak**, though not Rove. And it provides some explanation for why Armitage was not charged with an IIPA violation, but it

does not say as much. Alternately, it could lay the groundwork for an argument that Novak was lying when he said Armitage was his first source (which would explain why Tatel included so much detail about Novak's sourcing)—but I'll assume for now it doesn't since the passage says that uncontradicted testimony says that Novak first learned of Plame from Armitage.

The following two pages are redacted, and the paragraph following the long redaction reads: