

CATEGORY TWO DOCUMENTS

Good thing Rove resigned and finally distracted me from my FISA focus, huh? And in the process of looking up something relating to Rove, I noticed these two letters between Conyers and the RNC (and the RNC's lawyer) regarding documents it won't turn over. Most of these documents fall into "category one;" that is, documents the White House has asserted privilege over. But there's a separate "category two" that attracted my attention:

The White House describes these documents, which the Committee understands to include hundreds of pages, as relating to communications with or among White House officials concerning candidates for U.S. Attorney positions in the Central District of California, the Middle District of Tennessee, and the District of Montana. The White House does not claim executive privilege over these documents, but instead maintains that they "fall outside the Committee's investigative authority" because they relate to the President's purportedly "constitutional prerogative" to nominate U.S. Attorneys, and directs you not to disclose them without a further demonstration of relevance by the Committee. [my emphasis]

Let's take these out of order, starting with Montana.

Montana

Montana, you see, never did need a replacement candidate. Bill Mercer was, of course, playing roles at main DOJ at the same time as he was (and is) US Attorney for Montana. But he never quit. And when it came time to go before the Senate to be confirmed as Associate Attorney

General, he balked, withdrawing his nomination just days before the Senate Judiciary dealt with it. When Mercer balked in such a fashion, I noted,

As I said, Bill Mercer hasn't really been focused on day to day events in Montana for several years, since he first got a no-nomination acting appointment at Main DOJ. But one thing has been occurring—or not occurring—in Montana. The biggest beneficiary of Jack Abramoff's largesse, [former Montana Senator] Conrad Burns, has somehow managed to avoid the increasing scrutiny that John Doolittle and Bob Ney received. There has long been a question of whether Mercer has retained his appointment in Montana in an effort to protect Burns, and now it appears he can do little but that.

[snip]

Trust me—the Administration felt it important to retain Mercer out in Montana. It's something Gonzales himself emphasized in his statement on Mercer's resignation:

Gonzales said in a statement that he was "very pleased that the department will continue to benefit" from Mercer's talent in Montana.

It sure sounds like they were worried they'd have to forgo Mercer's services in Montana, and therefore decided to sacrifice him at Main DOJ.

In other words, the discussion of whom to replace Mercer with may well have been as much about how to protect Conrad Burns (and the larger Abramoff mess) as much as it had to do with finding a nice Republican hack to serve as Montana's top law enforcement officer.