

DID DUKE-OR THE 13 CONGRESSMEN-MAKE WILKES DO IT?

Paul Kiel notes the most curious of the three recent filings from the Wilkes/Michael case, in which prosecutors attempt to prevent Wilkes from citing duress as his defense against the bribery charges. I think the target of this filing is not—or not just—Duke Cunningham. Rather, I think prosecutors filed this to stave off Wilkes' Congressional testimony ploy. I say this, first, because they're only addressing Wilkes here, not Michael, and Wilkes is the one who subpoenaed 13 members of Congress. Further, prosecutors are rather sketchy about why they're filing this motion.

Further, Wilkes has proffered no facts that would support a necessity defense, and in his post-indictment statements, vehemently denied that Cunningham demanded any bribes, or that he (Wilkes) had provided any. Thus, there may not be a dispute on this matter, but in an abundance of caution, the Government moves to preclude defendant Wilkes from presenting irrelevant argument or evidence about duress or necessity, including economic coercion or extortion.

So it seems like they're trying to anticipate some unexpected move on Geragos' part.

Finally, an extortion claim would explain one reason for Wilkes to subpoena those 13 Congressmen (or, at least the ones with a healthy earmark addiction). Imagine if Wilkes brought them in and asked them whether it was possible to get these DOD and intelligence contracts. He'd basically be arguing that Congressmen routinely hit up contractors for bribes—you know, things like antique furniture

and not so antique prostitutes.

After all, the prosecutors show that Wilkes had a 9-year history of bribing Cunningham. To explain that away, he's going to have to establish that those bribes were the cost of doing business. And that, I suspect, is why he's subpoenaed the earmark patrol.