

# STUPID DOJ TRICKS: DON'T WATCH THIS BUSH AD

I have to admit. I find this ad totally unappealing. While Bush comes off as the same kind of mob-inciting thug as George Allen did in Macaca, Geoffrey Fieger's smug delivery doesn't make me want to have him represent me in any lawsuits. Still, it's marginally more subtle than most trial lawyer advertisements. And who can fault a guy for trying to make a buck off of being attacked by the astoundingly unpopular Bush?

Still, a pretty harmless ad.

Except that DOJ appears to be preparing to argue that it threatens their ability to try Fieger for crimes relating to campaign finance. They have subpoenaed the firm that made the ad, asking for:

(1) broadcast reports or media schedules for any television commercials that feature defendant Geoffrey Fieger together with a video clip of President George Bush. To the extent that Sussman Sikes has this information, the reports or schedules should include information about the number of TV commercials, the content of the TV commercials, when the TV commercials have played, when they are scheduled to be played, and on which television stations.

(2) the name and contact information of the person affiliated with Mr. Fieger who delivered the TV commercials to Sussman Sikes and who directs when and where the commercials should be played.

Now, there are two sides to this argument. Fieger has argued that Republicans at the state and then federal level targeted him for

investigation and indictment because he was (still is) a loud obnoxious Democrat and because he pissed off Bush by vocally encouraging Democrats McCain in 2000.

In the presidential primary of 2000, Mr. Fieger encouraged the people of Michigan to vote for John McCain and against Bush which caused droves of Democrats to the polls and gave McCain a win in the Michigan primary. The day after the primary, George Bush gave a speech at Lawrence Technological University during which he denounced Mr. Fieger by name no less than four times (referring to him as "Kevorkian's Attorney"). These facts demonstrate that the charges now before this Court originated in Washington D.C.

Fieger has even submitted the Bush clip as an exhibit to a motion on selective prosecution.

The government, on the other hand, argues that Fieger's public claims of selective prosecution threaten their case. They have moved to prevent Fieger's team from discussing selective prosecution during his trial, including any discussion of whether he was targeted for encouraging people to support McCain.

More particularly, the government asks that the defendants be precluded from asking questions during voir dire, or asking questions or submitting evidence or arguing at trial, relating to the following:

[snip]

2. Any claim that they are being prosecuted for who they are, or because they supported Democrats, or because they opposed the Bush administration, including by supporting other Republican candidates, and any other claim that they have been chosen for prosecution for any reason other than the fact that the government had allegations, which

■ were substantiated, that they violated  
the law as described in the indictment;

Still, the judge declined to issue a gag order for the case. And he has not yet even ruled on whether he'll allow Fieger discovery on the larger selective prosecution issue. Plus, this ad doesn't explicitly mention Fieger's indictment. So if the Prosecution is successful in excluding any mention to Bush's attack on Fieger, a juror would have to be pretty damn sharp to make the connection between Bush and Fieger's prosecution.

Besides the fact, I still think it rather thuggish for DOJ to fail to recognize that being attacked by Bush may well be good for business.