

# ROVE ONCE AGAIN SAYING THINGS ON TEEVEE HE CLAIMS HE CAN'T SAY TO CONGRESS

Thanks to TPM's reader GB for watching Rove on Stephanopoulos so I don't have to. Rove claims he shouldn't have to appear before Congress because—in a different subpoena—the White House invoked executive privilege.

Rove: Congress—the House Judiciary Committee wants to be able to call Presidential Aides on its whim up to testify, violating the separation of powers. Executive Privilege has been asserted by the White House in a similar instance in the Senate. It'll be, probably be asserted very shortly in the House. Third, the White House has agreed—I'm not asserting any personal privilege, the White House has offered and my lawyer has offered several different ways, if the House wants to find out information about this, they can find out information about this and they've refused to avail themselves of those opportunities.

Two things here.

First, the circumstances between this and the Senate subpoena are actually somewhat different. Rove's documented involvement in the USA firings is actually much more minor than that in the USA purge. In the USA purge, he briefly attended on meeting at the White House strategizing how they would respond to Congress' investigation and instructed the DOJ folks to come up with one story about what they said had happened. And some Republicans have said they asked Rove to fire Iglesias and later—in December 2007—that

Rove told them Iglesias was gone. The discussions of what Rove did subsequent to those requests is based on anonymous sources claiming that Rove intervened directly. Those same anonymous sources, though, say that Rove had to get Bush involved personally, which would implicate the President and then—except insofar as someone was arguing that the firing constituted obstruction—executive privilege.

Here, though, we've got a sworn source saying she heard references to Rove directly contacting DOJ, bypassing the President and therefore bypassing executive privilege.

Also, given Rove's involvement in Alabama politics, it's hard to say whether his activities were those of a presidential aide or a powerful GOP operative.

In any case, the White House has not yet invoked executive privilege here. And a few things are going to make that harder to do. First, who will provide the legal review to justify it? Paul Clement did the heavy lifting the last time the White House invoked executive privilege here—but it pertained solely to the hiring and firing of USAs. As faulty as I believe that decision to be, at least with that subpoena Clement could twist an argument into claiming the issues at stake were solidly presidential. But the basis for executive privilege would be very different here—in fact, the stronger argument would be for **DOJ** to argue that it cannot disclose information relating to charging decisions, rather than the President invoke executive privilege. But no one seems prepared to do that. In addition, Clement will be gone by the end of next week, meaning some one else would have to take on the nasty task of invoking privilege when it so clearly seems to be an attempt to cover up a potential crime. It's possible that DOJ is less willing to do so in this case—we shall see.

Particularly given the frequentness with which Rove has commented on this publicly—as he did once against this morning. It's an increasingly ridiculous argument to say that Rove can talk

about this to 60 Minutes, GQ, Fox, and now George Stephanopoulos. But he can't talk about it to John Conyers.

And finally, add in the fact that when faced with a marginally antagonistic questioner, Rove's denials look increasingly like empty spin.

Steph: But to be clear, you did not contact the Justice Department about this case?

Rove: I read about—I'm gonna simply say what I've said before which is I found out about Don Siegelman's investigation and indictment by reading about it in the newspaper.

Steph: That's not a denial.

Rove: I, I, I've, you know, I heard about it, read about, first learned about it by reading it in the newspaper.

If Rove repeatedly goes on the telly to deny he was involved, but also refuses to say he had **no** involvement in this, it'll be tough to argue he shouldn't testify.

That said, there's an underlying issue here that makes this weak claim to executive privilege even more dangerous.

Josh claims that if Rove is implicated in the Don Siegelman firing, it's the most scandalous revelation that might come out of the USA Purge.

If Siegelman's and Alabama GOP lawyer Jill Simpson's stories are true, that would make this case the centerpiece example of the corruption of the DOJ revealed by the US Attorney firing scandal. In fact, it would make most of what we know now seem minor by comparison.

I disagree, strongly.

You see, Rove is treating this HJC request as if it's a duplicate of the USA Purge subpoena he received from the Senate. As I've argued above, Rove is actually being asked to testify about politicized prosecution, and not about USA firings. And that should distinguish it from the Senate subpoena, not to mention disqualify it for executive privilege.

But what Rove appears to be truly afraid of is not answering questions about Don Siegelman. It's answering questions about the other politicized prosecution that several witnesses have recently sworn that Rove was involved in: that of Bob Kjellander.

I also can't help but wonder whether Karl wants to limit testimony to Siegelman because of something he noticed on HJC's website. HJC has put PatFitz's QFRs right there alongside all the material on politicized prosecutions. The only thing PatFitz mentioned regarding politicized prosecutions had to do with the revelations that have since come out in the Rezko trial—revelations that put at least 3 people, some of them solidly corrupt Republicans like Turdblossom, on the record with hearsay evidence about Rove working to fire PatFitz. And since Rove has already sent his BFF Michael Isikoff out to figure out what evidence there is against him, it sure seems like Rove doesn't want to testify about the conversations he had with Bob Kjellander about firing Patrick Fitzgerald.

But this is one area that has the evidentiary justification of the Siegelman case (several people, also including Republicans, with hearsay evidence stating Rove was acting improperly). Like the Siegelman case, it pertains to politicized prosecutions.

But it also pertains to the USA purge, which makes Rove's claim to executive privilege

pertinent again.

Now, in general, Rove freely admits (to GQ, but not to Congress) that he conveyed complaints about USAs to the White House. He also asserted that that was perfectly okay.

**What about the U.S. attorneys? Should you have had a role in hiring and firing?**

*[a little peeved now]* What was my role in firing those U.S. attorneys?

**Your position has been—and tell me if I have this wrong—that you basically relayed complaints?**

To the counsel's office. Correct.

**And that was an appropriate thing to do?**

Oh sure. Sure it is. Sure it is.

Oh sure, Karl Rove is saying, it would be perfectly fine if I told Gonzales that our big corrupt Chicago donors were pissed that they might be prosecuted for their corruption.

Except that, in this case, Rove would have been relaying complaints about a prosecutor not only prosecuting corrupt Chicago Republicans (and Democrats—Chicago is a bipartisan den of corruption). Fitzgerald's oblique answer to the QFRs from the House strongly suggests that Rove was relaying complaints about Patrick Fitzgerald from Kjellander **while** Fitzgerald was actively investigating Rove's own involvement in outing Valerie Wilson.

Rove's alleged role in the prosecution of Don Siegelman is pretty terrible. But the allegation that Rove appears to have even more disinterest in answering has to do with his own efforts to get Fitzgerald fired during the time when Fitzgerald was investigating Rove himself.