

MALEVOLENCE IN MISSISSIPPI

Ill winds have been blowing through the Mississippi political and legal scene for a long time now. There is Trent Lott and his son-in-law Dickie Scruggs. A real soap opera there. Scruggs was a legal legend and one of the biggest, if not the biggest, Democratic donors in the state. Now he has pled guilty and Trent Lott has been implicated in the mess. Then there is the highly disturbing tale of Judge Wes Teel that Scott Horton has been doggedly following. Oh, yes, there was also the political persecution of attorney Paul Minor who, wouldn't you know, was the other biggest Democratic donor in Mississippi. And, of course, there is the by now famous case of former Alabama Governor Don Siegelman; which, although an Alabama case, has ties to Mississippi. Man, the Delta sure ain't a safe place for Democratic lawyers, judges and politicians; guess I best stick to the desert here.

The common thread running through all these prosecutions is the selective targeting of Democrats by the hand of the politicized Bush Department of Justice. From Noel Hillman, the former head of the Public Integrity Section at DOJ Main in Washington, to Leura Canary, to Dunn Lampton, to Alice Martin. All Bush appointed prosecutorial political attack dogs. All tied to Karl Rove. By the way, if you are not familiar with all these stories, do click and read the links, you will find fantastic tales.

Oops, did I forget to mention the attempted take down of Mississippi Supreme Court Judge Oliver Diaz in the same situation that involved Paul Minor? Well, Judge Diaz and the Mississippi Malevolence is back in the news today. Turns out that when you are a centrist or progressive Supreme Court Judge in Mississippi (Diaz, by the way, was originally a Republican, but he was fair minded, and thus shifted), if the Right Wing hit squads can't persecute you into prison,

they simply prevent you from discharging your judicial duties and exercising your judicial discretion.

A jaw dropping report out today in the Northeast Mississippi Daily Journal:

Something unusual happened Thursday at the Mississippi Supreme Court.

It may be the first time a majority of the justices voted to prohibit a colleague from publishing a dissent in a case.

In other words, Presiding Justice Oliver Diaz of Ocean Springs disagreed with a court decision and wanted to write about it. His fellow judges said, no, he couldn't and they apparently stopped the court clerk from filing Diaz's statement into the record.

Diaz's document also wasn't made available to the public, as every other order and dissent are.

"My job as a Supreme Court justice is to write opinions and dissents, when necessary," Diaz said later Thursday. "I was prevented from doing so by a majority of the court."

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Banning a justice from publishing his dissent is highly unusual, said a former state judge, who asked not to be identified.

Diaz speculates it "may be unprecedented in the history of American jurisprudence."

"I don't know of any instance this has happened," said the judge with Supreme Court experience.

Oxford attorney Tom Freeland IV was not so circumspect with his reaction:

"I have been following the Mississippi

Supreme Court closely for 25 years and I have never heard of such a thing," he said Thursday.

A look at Diaz's dissent shows he argues the error of the court's decision that the statute of limitations for wrongful death lawsuits begins at the time of the injury, not on the date of death.

"The obvious result is that a wrongful death action may expire before the decedent does.

"This judicially created rule is without foundation, and frankly, absurd," he adds in his seven-page document provided to the Daily Journal.

What is the background of the case the decision related to? The case at issue was a wrongful death lawsuit filed by an employee of the court against the Mississippi State Veterans Affairs Board. What the majority of the Mississippi Supreme Court, and they are all elected and *extremely* right wing Republicans, was doing is establishing supreme court precedence for the Republican tort reform lobby's wet dream of having the statute of limitations for a wrongful death action start to run on the date of the initial injury. Even if the victim isn't dead yet. And there you have it. Make a craven decision and prohibit any dissent; even by a fellow judge. Lovely.

UPDATE: rOTL in comments catches a case that I had pulled up and intended to include in this post and negligently forgot. It involves the patina of dirt and corruption that yet another Bush appointed US Attorney is maliciously trying to apply to former Mississippi Governor Ronnie Musgrove, who is making a very strong challenge for Trent Lott's old Senate seat this election, a seat that the Republicans are literally desperate to hold onto. From an op-ed in the local newspaper, the Greenwood Commonwealth, the paper's editor relates:

When the Democrats and their attorneys began claiming last year that the Bush administration was using its prosecutorial might to target opposition candidates and their major financial supporters, I greeted the allegation with a skeptical eye.

I'm not so sure anymore.

This past week's developments in the four-year-old investigation into the failed Mississippi Beef Processors plant seem timed to help derail Democrat Ronnie Musgrove's bid to snatch one of the state's two U.S. Senate seats from Republican hands.

Three Georgia businessmen, one by one over the course of four days, entered guilty pleas to federal charges arising out of the Yalobusha County beef plant's quick and costly demise.

The three, all executives with The Facility Group of Smyrna, Ga., were largely left off the hook on the more serious charges that they had swindled the state out of at least \$2 million and had left the plant's vendors and contractors holding the bag.

Instead, they were allowed in a plea bargain to confess to trying to buy influence with Musgrove by steering \$25,000 to the then-governor's unsuccessful re-election campaign in 2003.

The orchestrated guilty pleas – and the prosecutors' suggestion that more indictments could be forthcoming – are a boon to the campaign of Republican Roger Wicker, who was appointed to the vacant Senate seat in December but is considered vulnerable. They leave a cloud over Musgrove in voters' minds and provide more fodder for negative campaign ads from the GOP camp, even

though Musgrove has not been charged with any wrongdoing and there's nothing in the court records to document he did anything illegal.

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Musgrove, though, was at most a minor player in the mess.

Yet the efforts to link him publicly to the corruption scandal – using the combined power of the federal prosecutors and a Republican state auditor – have intensified since Musgrove announced his intentions to challenge Wicker for the Senate seat.

The conspiracy theorists see a pattern. They cite the unrelated bribery convictions of Democratic former Alabama Gov. Don Siegelman and Mississippi trial lawyer Paul Minor, a major donor to Democratic candidates, as earlier proof that political affiliation is determining who gets investigated and prosecuted by the Justice Department. That allegation is being looked at by congressional panels even while both convictions are on appeal.

The hand chosen Republican candidate, Wicker, has a powerful ally in the form of the US Attorney handling the matter, Jim Greenlee, who is a prior donor to Wicker's congressional campaign. As Scott Horton notes:

In his speech last week to the American Bar Association, Attorney General Mukasey delivered this promise:

If anyone... is found to be handling or deciding cases based on politics, and not based on what the law and facts require, there will be a swift and unambiguous response.

The developments in Mississippi show

I exactly what Mukasey's promise is worth.

No kidding.