

NO WONDER THE SIEGELMAN PROSECUTOR DIDN'T WANT AN INVESTIGATION OF THE JUROR EMAILS

One of the key grounds for appeal in the Don Siegelman case is that there was evidence of juror misconduct—two jurors plotting how to get a conviction—that the prosecution had the US postal inspectors investigate even while insisting any investigation would taint the jury process.

At issue is a series of e-mails that arose in 2006 suggesting that two jurors had outside influence as they decided Siegelman's bribery conviction. After he was found guilty, Siegelman sought a new trial over the e-mails, printed copies of which had been mailed to defense attorneys.

U.S. District Judge Mark Fuller denied the motion for a new trial, ruling that the allegations were unsubstantiated. Siegelman has cited the issue as a central point in his ongoing appeal.

Two weeks ago, the head of the Justice Department's appellate division, Patty Merkamp Stemler, informed Siegelman's attorneys that the department had discovered undisclosed information about the controversy as attorneys prepared for the appeal. In a July 8 letter, Stemler wrote that **while Siegelman's mistrial proceedings were pending, acting U.S. Attorney Louis Franklin asked U.S. postal inspectors to try to determine who sent the e-mails through the mail.**

U.S. Marshals later informed Fuller that the inspectors had concluded the e-mails were fakes. They determined, for example, that one e-mail didn't match up with the corresponding juror's e-mail account.

But the information produced for prosecutors and given to the judge was never passed along to Siegelman's attorneys for cross-examination. [my emphasis]

A letter John Conyers just sent to Michael Mukasey reveals that the prosecution team allegedly knew that one of these jurors was sending flirty messages to the prosecution team during the trial. In other words, **when the prosecution team fought any investigation into improper juror conduct, they had reason to believe that there had been improper contact between jurors and the prosecution team.**

Those are contacts, of course, that would remain hidden in any investigation the US postal inspectors would do.

The Whistleblower

Conyers explains that Tamarah Grimes, a member of the Siegelman prosecution team, turned over emails reflecting a conversation about juror contacts with the prosecution team.

This email chain is dated June 15, 2006—the day the Siegelman/Scrushy case was submitted to the jury for its decision. The key email in the chain was written by Ms. Patricia Watson,

[snip]

In this email, Ms. Watson writes: "I just saw Keith in the hall. The jurors kept sending out messages through the marshalls. A couple of them wanted to know if he was married." Apparently, the "Keith" referenced in this email is FBI Special Agent Keith Baker, a member of

the Siegelman prosecution team who reportedly sat at or near the prosecution's counsel table throughout the trial. Ms. Grimes responded to this email, writing "Yeah, that's what Vallie said. He said one girl was a gymnast and they called her 'Flipper,' because she apparently did back flips to entertain the jurors. Flipper was very interested in Keith.

Now, Conyers goes on to talk about how inappropriate the contact itself was. But to me, it raises much more important questions about why Larry Franklin—the prosecutor in the case—made such an effort to shunt off the investigation into improper conduct of jurors to a secret investigation conducted by the US postal inspectors. Apparently, at least three members of the prosecution team knew that one of the jurors alleged to have been plotting a Siegelman conviction had reached out to contact prosecutors. According to Grimes' whistleblower complaint, Franklin said of this juror that another member of the prosecution team, "talked to her. She is just scared and afraid she is going to get in trouble." And allegedly knowing this about the juror—knowing that she was "afraid she [was] going to get in trouble," Franklin secretly pursued an investigation not into her potential misconduct itself, but into who sent emails bearing her name.

DOJ's Crappy Investigation of the Allegations

And then there's the question of what the DOJ did after the Office of Special Counsel conducted an investigation into them.

...we have recently learned that this issue and others raised by Ms. Grimes was referred by the Office of Special Counsel to your office for evaluation. In response, an initial report has been prepared by two Assistant United States Attorneys which essentially concludes that, despite the plain statement to the

contrary in this email chain, no messages were actually sent by any members of the jury to the prosecution through the US Marshals.

[snip]

We are troubled, however, that the investigators appear to have reached this conclusion without interviewing the US Marshals who supervised the Siegelman jury and who are described in the email as having been the conduit for jury messages to the prosecution. Nor do the investigators appear to have interviewed any member of the jury.

In other words, after the prosecutor in the case had launched a secret investigation into the allegations guaranteed to shield any actual misconduct, DOJ conducted a second investigation, once again designed to shield any misconduct. It appears that no one has yet interviewed "Flipper" about all the things she was alleged to have done during the prosecution (she was interviewed by the US Postal Inspectors, but presumably not about these contacts).

Conyers goes on to describes the proof that Leura Canary—who purportedly recused from the case—was receiving campaign emails from Siegelman and forwarding them onto the prosecution team with strategy suggestions on how to use them against him—suggestions they used.

The real message Conyers appears to be sending, though, is that he holds the Mukasey DOJ directly responsible for ignoring all whistleblower evidence. In a footnote to this statement appearing in his final paragraph...

We appreciate Ms. Grimes providing this information, which she apparently has previously presented to several executive branch offices.

...He cites 5 USC 2302(b)(8)(A)(I)&(ii):

Any employee who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority—take or failr to take ... a personnel action with respect to any employee ... because of any disclosure of information ... which the employee ... reasonably believes evidences a violation of any law...

For some reason, Conyers suggests, Mukasey's own DOJ seems to be sitting on an awful lot of damning information from Tamarah Grimes.