

Jury rejects charges by independent counsel against former US Agriculture Secretary

Martin McLaughlin
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The acquittal of former Agriculture Secretary Mike Espy is a political setback for the right-wing campaign to destabilize the Clinton administration by means of investigations by a battery of special prosecutors. Like Kenneth Starr, the special prosecutor in the Espy case, Donald Smaltz, parlayed a minor peccadillo into a massive and long-running investigation whose costs have run into the millions.

A Washington, DC jury acquitted Espy of all 30 counts brought against him as a result of Smaltz's probe, leaving the independent counsel little to show for a four-year investigation in which he spent \$17 million investigating a total of \$33,000 in gifts and favors received by Espy during his tenure in the Department of Agriculture.

The speed with which the jury returned its verdict was a rebuke to the prosecutor. After a six-week trial in which Smaltz presented 70 witnesses, the defense rested without presenting any evidence, and the jury deliberated for only 9 hours, about 18 minutes for each of the 30 counts on which they found Espy not guilty.

Espy resigned from the Clinton cabinet in October 1994 after it was revealed that he had received free air transportation, tickets to the Super Bowl and other sporting events, jewelry, luggage and other gifts from agribusiness executives and lobbyists. Such relations are typical of those between big business politicians and corporate America: virtually every congressman, senator and high-ranking government bureaucrat engages in similar practices.

If anything was unusual about the Espy case, it was that the independent counsel, despite the wide-ranging scale of his investigation, was unable to prove that the gifts had actually influenced any decisions taken by the Department of Agriculture. This was the legal standard he had to meet in order to win a conviction on charges

of bribery or acceptance of an illegal gratuity.

A three-term Democratic congressman from Mississippi before Clinton named him Secretary of Agriculture, Espy had cozy relations with agribusiness for many years. The lobbyists and executives who showered him with favors were his personal friends, he maintained.

The legal anomaly in this case is that several agribusiness firms and lobbyists were convicted or pled guilty to giving illegal gratuities to Espy--including Tyson Foods, the biggest US poultry firm and the biggest agribusiness company in Arkansas--but Espy has now been acquitted of receiving these very gratuities.

The opposed verdicts indicate a shift in public sentiment in relation to cases brought by special prosecutors, sparked by widespread opposition to the Starr investigation against the Clinton White House. If Espy's case had gone to trial a year ago, rather than in the feverish atmosphere created by the Monica Lewinsky affair, the jurors might well have seen it as a simple case of corruption and produced a different verdict.

Alerted to the likelihood of prosecutorial misconduct by the example of Starr, the jury was prepared to accept the arguments of Espy's attorneys that Smaltz was an overreaching and out-of-control prosecutor.

There is considerable evidence of Smaltz's political motivation. Particularly significant was his attempt, shortly after his appointment as independent counsel, to subpoena flight logs and notes of pilots working for Tyson Foods, in an effort, he said, to determine whether Tyson had shipped cash bribes to Bill Clinton while Clinton was governor of Arkansas. This allegation was so remote from his original jurisdiction in the Espy case that a federal judge agreed to quash the

subpoenas and halt that aspect of Smaltz's probe.

Smaltz escalated his investigation into a vendetta against Espy's family, putting Henry Espy on trial on charges of campaign finance violations in his unsuccessful 1993 campaign to succeed his older brother in Congress. This case was also thrown out as beyond Smaltz's jurisdiction, which was limited to Mike Espy's actions in the Department of Agriculture, and those of his immediate aides.

While Espy is the first Clinton cabinet member to go to trial, a half dozen others have faced or are facing independent counsel investigations, or have cases which are being processed by the Justice Department in preparation for the appointment of independent counsels. These include Bruce Babbitt, Secretary of the Interior; Henry Cisneros, former Secretary of Housing and Urban Development; Alexis Herman, Secretary of Labor; Federico Pena, former Secretary of Transportation and Secretary of Energy; and the late Ron Brown, former Secretary of Commerce.

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