

Independent Counsel Starr presses attack on witnesses

Appeals court reinstates tax case against Webster Hubbell

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Independent Counsel Kenneth Starr's relentless pursuit of recalcitrant witnesses was given a boost Tuesday by a Federal appeals panel, which reinstated Starr's criminal tax fraud case against Clinton associate and former Justice Department official Webster Hubbell.

Hubbell has already served a 17-month prison term in a separate fraud case brought by Starr, relating to Hubbell's activities as a partner in the Rose Law Firm in Arkansas, and last November Starr indicted him on charges that he concealed information about another Arkansas real estate transaction in which he and Hillary Clinton were involved.

The tax fraud case that was revived on Tuesday alleges that Hubbell failed to pay taxes on some \$850,000 in income, most of which he received after he resigned from the post of Associate Attorney General in 1994. Starr claims that the bulk of Hubbell's income over the next four years was "hush money," paid out by Clinton supporters to keep Hubbell from providing information that would incriminate the president and the first lady.

Starr charges that Clinton confidante Vernon Jordan, who helped Hubbell obtain consulting fees during this period, was part of a plot to buy Hubbell's silence. When Starr went to Attorney General Janet Reno last January to obtain authority to investigate Clinton's relations with Monica Lewinsky, he cited Jordan's role in helping Lewinsky get a job as evidence of a "pattern" of obstruction of justice.

Hubbell insists that he has no incriminating information, and the web of investigations and indictments is a witch-hunt aimed at coercing him into providing false testimony that Starr's office would then

use against the Clintons. Hubbell's charges are underscored by the fact that Starr has included in the tax fraud indictment Hubbell's wife, his accountant and his lawyer.

Such has been the modus operandi of Starr's office since he was appointed independent counsel in 1994. His victims have included former Whitewater partner Susan McDougal, jailed for 18 months on contempt charges and currently awaiting trial on charges filed by Starr, and Julie Hiatt Steele, whom Starr indicted earlier this month on charges of perjury and obstruction of justice. Steele became a target of Starr's legal bullying when she filed an affidavit discrediting Kathleen Willey's allegations of sexual misconduct by Clinton.

In last Tuesday's ruling, the United States Court of Appeals for the District of Columbia Circuit overturned, in a two-to-one vote, a decision handed down last July by US District Court Judge James Robertson. In the earlier decision Robertson threw out Starr's tax evasion case against Hubbell on three grounds.

Robertson said the Special Division, the panel of three federal appeals judges which oversees the Office of Independent Counsel, did not have the authority to expand Starr's jurisdiction into the area of Hubbell's tax filings, since Starr made the request for this expansion directly to the Special Division, without seeking the approval of, or even informing, the attorney general. Starr submitted his request in secret last January.

The Special Division, whose judges are appointed by Chief Justice William Rehnquist, is headed by David Sentelle, an extreme right-wing Republican.

Secondly, Robertson ruled that the entire matter of

Hubbell's tax payments was too far afield from the independent counsel's original mandate--to investigate Clinton's involvement in the 1970s Whitewater real estate deal.

Finally, Robertson said Starr's evidence was tainted because it was based on some 13,000 pages of financial records that Hubbell had handed over under a grant of immunity in the previous case. Robertson ruled that Starr had violated Hubbell's right against self-incrimination by improperly using the information in these documents to file the tax fraud indictment. He denounced the subpoena served on Hubbell for that information as "a quintessential fishing expedition."

In overturning the US District Court ruling and reinstating Starr's tax fraud case, the federal appeals panel rejected Robertson's rulings on the expansion of Starr's authority by the Special Division and the relevance of the tax evasion charges to Starr's original Whitewater mandate. On these issues Judge Patricia Wald, named to the bench by Jimmy Carter, joined with Stephen Williams, a Reagan appointee. The majority decision, written by Williams, not only reinstated the case, but declared Starr's allegations of hush money to be "reasonable." The third judge, David Tatel, a Clinton appointee, dissented.

However, in another split ruling, Wald and Tatel overrode Williams to raise doubt on the admissibility of the financial documents obtained by Starr under the grant of immunity, which form the foundation of his charges. They ruled that Starr would have to show he had not relied on Hubbell's testimony to obtain the documents, and already had "reasonably particular knowledge" of their existence. Otherwise the contents of the financial records would be inadmissible.



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