

In second week of Arkansas trial

Witnesses undermine Starr case against Susan McDougal

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The trial of Susan McDougal on criminal contempt and obstruction of justice charges continued this week in Little Rock, Arkansas with prosecutors from the Office of Independent Counsel increasingly on the defensive. McDougal, who has already served nearly two years in prison for two previous Whitewater-related convictions, faces yet a third trial which could result in a prison term of 10 years and \$750,000 in fines.

Much of the week's proceedings consisted of a series of prosecutors working for Kenneth Starr and grand jurors testifying that they had not conspired to force McDougal to lie about Bill and Hillary Clinton, her former partners in the Whitewater Development Co.

Given that admitting such conduct would amount to confessing to the felony crime of subornation of perjury, the denials were predictable. But it was nonetheless extraordinary that the prosecution felt it necessary to preempt the defense argument that McDougal refused to testify because she believed the Starr investigation was a politically motivated inquiry and that prosecutors would indict her for perjury if she did not give them anti-Clinton testimony.

McDougal and her late husband James were partners with the Clintons in the failed Whitewater real estate development. She was convicted and sent to prison for receiving an illegal \$300,000 loan in the 1980s from a federally backed fund headed by former Little Rock judge David Hale. Starr's prosecutors claim that Bill Clinton, then governor of Arkansas, lobbied for the loan, and that part of the loan was used to retire his Whitewater debts.

The loan was part of a complex scheme engineered by James McDougal to sustain his failing Madison

Guaranty Savings and Loan and other real estate developments. There is no evidence that any of the funds went to Whitewater or that either of the Clintons profited from or was aware of the arrangement. This flimsy case has nonetheless served as the launching pad for the five-year-long campaign of political destabilization waged by extreme right-wing groups against the White House.

McDougal's attorney Mark Geragos was able to elicit damaging admissions from several witnesses called by the prosecution. FBI agent Michael Pertkus, who testified at length about the web of financial dealings by James McDougal, conceded that he would not have recommended bringing charges over Whitewater against either Bill or Hillary Clinton on the basis of the testimony of James McDougal and David Hale, both of whom were convicted con men and admitted perjurers.

Denise Castleberry, a former grand juror who said she had "warm feelings" about Starr's prosecutors, admitted that they had not told the grand jury of material assistance provided to James McDougal and David Hale in return for their cooperation. McDougal was provided with housing, while Hale was paid \$60,000 for living expenses by Starr's office--a fact that surely would be significant in any objective evaluation of his testimony.

A Ft. Smith, Arkansas grand jury is currently investigating payments made to Hale--allegedly with the knowledge of Starr's office--by right-wing groups financed by billionaire Richard Mellon Scaife. These groups include the Arkansas Project, which was set up by the magazine *American Spectator* to dig up dirt on the Clintons.

A second grand juror, Marsha High, revealed that

only 12 of the 19 grand jurors present at an April 1998 session had voted in favor of reaffirming the court order for Susan McDougal to testify. This is the order which she is now charged with violating. Since 15 votes are required to bring a grand jury indictment, Geragos said that High's admission, which she confirmed from her contemporaneous notes, might call into question the legality of the entire proceeding.

As the culmination of the prosecution's case, associate independent counsel Mark Barrett played 30 minutes of videotape of deposition testimony from Hillary Clinton. Mrs. Clinton was questioned under oath about Whitewater for the sixth time on April 25, 1998, less than one week after Susan McDougal refused to testify. Barrett contrasted Hillary Clinton's willingness to answer questions with McDougal's defiant refusal.

Leaving aside the question whether the Clintons themselves would have been better served, legally and politically, by echoing Susan McDougal's defiance, any objective examination of the transcript of Hillary Clinton's testimony refutes the prosecution's argument. Mrs. Clinton was asked a series of convoluted, and in some instances nearly incomprehensible, questions about 15-year-old financial transactions, documents, Rose Law Firm billing records, and conversations. To each inquiry she responded either that she did not know what the prosecutor was talking about, had no personal involvement, or could not remember minute details of these long-ago events.

It is perfectly understandable why a woman in Susan McDougal's position, facing the power of the Office of Independent Counsel without the protection of the White House and a battery of lawyers, would refuse to undergo such an interrogation.

There was another purpose, and a transparently political one, for the introduction of Mrs. Clinton's testimony. While this evidence had little relevance to the trial, it put the previously secret videotape into the public record, to provide ammunition for the ongoing political campaign against the Clinton White House.

Once again, at least for a day, the American media was full of reports linking the Clintons to allegedly illegal financial dealings in Arkansas, focusing on a \$27,600 cashier's check, and a \$5,081 personal check from Susan McDougal bearing the notation "Payoff Clinton." The cashier's check was not endorsed by

Clinton and in 1996 grand jury testimony he denied any knowledge of it.



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