

Aftermath of the US impeachment drive: Starr presses persecution of Susan McDougal

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Independent Counsel Kenneth Starr has resumed his attack on one of the victims of his long-running political campaign against the White House, putting Susan McDougal on trial in Little Rock, Arkansas. Starr is seeking to send her to prison for the third time.

The trial began with jury selection Monday and Tuesday, followed by opening statements on Wednesday. McDougal, who has already served an 18-month prison sentence for contempt of court, faces a prison term of up to 10 years and fines totaling \$750,000 if convicted on new charges of contempt of court and obstruction of justice.

McDougal has also served three-and-a-half months in prison for a fraud conviction related to the operations of Madison Guaranty Savings and Loan. Her late ex-husband Jim McDougal died in prison while serving a three-year sentence on fraud charges stemming from the bankrupt S&L.

Starr has targeted Susan McDougal because she has refused to cooperate with the Office of Independent Counsel (OIC), charging that it is conducting a politically motivated inquisition and that Starr's prosecutors have pressured her to supply false testimony against Bill and Hillary Clinton. She reiterated that stand in an interview just before the latest trial opened, declaring, "Anyone who has done 18 months on a matter of principle wouldn't give in if it were 18 years. More than ever, I absolutely believe I did the right thing."

Mark Geragos, McDougal's lawyer, promised an aggressive defense based on substantiating the charges that Starr's office is guilty of prosecutorial misconduct. He said that Susan McDougal will take the stand and testify about the threats and inducements to lie offered by Starr's office, provided that Judge George Howard Jr. allows such testimony to be introduced.

At a hearing March 5, Howard rejected a prosecution motion to "prohibit defendant from raising allegations of prosecutorial misconduct or outrageous government behavior based on the allegations that she was asked to lie." Geragos described this as "the core of our defense."

The judge will take testimony on the allegations of misconduct by Starr's prosecutors outside the hearing of the jury, then rule on whether this evidence can be admitted at trial. Geragos has suggested that he would call Monica Lewinsky and Julie Hiatt Steele, two other victims of Starr's methods, as witnesses.

Howard ruled that Geragos could not discuss the conditions which McDougal faced in prison, her health, or claim that "prosecutorial vindictiveness" was behind charges of fraud brought against McDougal in Los Angeles in an unrelated case.

McDougal was acquitted last November on the Los Angeles charges, related to her employment as an assistant to the wife of conductor Zubin Mehta. Geragos and McDougal have stated that the case was only brought by local prosecutors because of pressure from Starr's office. In an extraordinary show of sympathy, two jurors from the panel which acquitted McDougal in Los Angeles have flown to Little Rock to attend her trial.

The two days of jury selection showed the deep public hostility to Starr's investigation, especially in Arkansas, where the Office of Independent Counsel has become notorious for bullying witnesses and concocting flimsy and politically motivated charges. As soon as the first panel of six jurors sat down, one young man said to the lead prosecutor, associate independent counsel Mark Barrett, "Can I ask a question? What is your relationship to Ken Starr?" When told that Barrett worked for Starr, the prospective juror said, "I don't

hold a high opinion of Kenneth Starr." He was later discharged "for cause."

Seven of the first 24 jurors questioned expressed highly negative feelings about the special prosecutor, calling Starr "pushy and cruel," saying "he went too far," and describing him as "out to get" Clinton. Another said that Starr was a "leak-o-matic." Only one of the group voiced strong support for Starr, a man who described himself as an avid Rush Limbaugh listener who believed Clinton was "darn near socialist."

Geragos said that this panel was actually less hostile to Starr than the jury pool as a whole. Of the first 400 potential jurors interviewed by questionnaire, 40 percent expressed open hostility to the special prosecutor, and many of these were weeded out before the oral questioning began.

The opening statements contrasted the motivations of the two sides. Barrett focused most of his remarks on Clinton, leading Geragos to ask who was on trial, Clinton or McDougal. For the first time in any Whitewater proceeding, the Office of Independent Counsel claimed that proceeds from a \$300,000 federally backed loan made to Susan McDougal by David Hale were used to pay off the Clintons' debt in the failed Whitewater real estate development. Starr made no such charge in his impeachment referral to Congress, or in his testimony before the House Judiciary Committee in December.

Barrett also declared that even if McDougal was convinced that Starr was out to get the president, she did not have the right to refuse to cooperate with the special prosecutor.

The opening statement for the defense was a harsh condemnation of Starr's "so-called investigation," whose purpose, Geragos said, was "to convict or tarnish the President of the United States at any cost." He described a telephone conversation between Susan McDougal and prosecutors in which they offered to recommend probation for her 1996 fraud conviction and provide assistance with her California legal problems if she agreed to cooperate. "You know who we want and you know what we want," they told her.

Her lawyer said that McDougal was afraid that if her testimony did not prove sufficiently anti-Clinton, the Office of Independent Counsel would bring perjury charges against her. This is the modus operandi in the case of Julie Hiatt Steele, who was indicted for perjury

because her testimony undercut charges against Clinton made by Kathleen Willey.

The criminal contempt indictment was a final act of spite by Starr, handed down by his Little Rock grand jury just before it was disbanded in May 1998 without bringing any charges against either of the Clintons, although several indictments were brought in unrelated financial fraud cases involving prominent figures in Little Rock.

It remains to be seen, given the widespread popular hostility to the Starr investigation, whether the current attempt to jail Susan McDougal will be successful. Meanwhile, Starr's Washington office was plunged into crisis March 11 with the sudden resignation of press spokesman Charles Bakaly, after evidence was reportedly uncovered linking him to illegal leaks to the press.

Bakaly was apparently the source of a January 31, 1999 article in the *New York Times*, written by Don Van Natta Jr., which reported that Starr had concluded he had the power to indict the president on criminal charges while Clinton was in office. The front-page article appeared in the midst of the Senate impeachment trial.

Starr is himself the target of several investigations which could result in his removal from office, or even criminal prosecution. A special master appointed by Federal Judge Norma Holloway Johnson is conducting a closed-door probe into earlier leaks of grand jury materials from the Office of Independent Counsel. A separate Justice Department inquiry is investigating charges that Starr's prosecutors violated the rights of Monica Lewinsky during her interrogation and lied to Justice Department officials about contacts with the Paula Jones lawyers when seeking OIC jurisdiction over the Lewinsky affair.



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