

An interview with Mark Geragos

Susan McDougal's defense attorney details Kenneth Starr's assault on democratic rights

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When Susan McDougal was found guilty years ago to Whitewater-related charges brought by Kenneth Starr and the Office of Independent Counsel, she thought her legal problems would be over once she had completed her sentence. Not so.

Starr dragged her in front of the United States Grand Jury in Little Rock, Arkansas, as part of his attempt to fabricate a case for the removal of Bill Clinton. McDougal found herself back in federal prison for civil contempt when she refused to answer Starr's questions. After languishing there, she was suddenly moved to Sybil Brand Institute, Los Angeles County's jail for women, to face California criminal allegations that she stole money while working for the famous conductor, Zuben Mehta, and his wife. Sybil Brand had an established reputation as one of the most brutal and unpleasant jail facilities for women in the United States. It is now closed.

While incarcerated in Los Angeles, McDougal engaged Mark Geragos, a well-known local criminal defense attorney, to represent her in the Mehta theft case. He ultimately obtained a court order releasing her from jail, and then, after 15 weeks of trial, secured a jury verdict acquitting her of all the California criminal charges.

Geragos then defended McDougal against a new round of federal criminal charges Starr filed against her in Little Rock. Last week that jury acquitted McDougal of obstruction of justice and voted 7-5 in her favor on the criminal contempt charges. The jury foreman said Starr's prosecutors displayed "a certain amount of arrogance," and thought the Office of Independent Counsel "was trying to get her to say something that was not true." The Office of the Independent Counsel still has the option of retrying McDougal on the contempt charges.

Geragos granted the following exclusive interview with the WSW.

WSWS: Why did you undertake to represent Susan McDougal?

MG: Originally, when I got the call it was to represent her here. She was looking for a lawyer. I went down to Sybil Brand. There was something bizarre about the fact that she was in civil contempt yet she had been dragged across the country to stand trial in a criminal case. That made no sense to me because normally someone in civil contempt is supposed to be within the jurisdiction of the court holding them in contempt. They are supposed to be readily accessible so they can testify at a moment's notice. The old expression is that they are holding the key to their own jail cell.

I thought there was something that did not quite compute. What was probably most shocking to me is that when I met her at the old Sybil Brand, when it was still open, I called her down with three other clients, all female and all charged with either murder or attempted murder. The murder defendants came down without shackles on, but Susan came down shackled. When I asked about that, the jail said it was for her own protection. I knew there was something going on at that point. The whole thing just didn't smell or taste right, so I agreed to get into it to

represent her because I felt that something was just wrong there, that she was getting hounded.

We do a fair amount of pro bono cases. It appeared to be a theft case, given the facts that were alleged. It looked like a little investigation would make the case go away. I didn't think it was going to be a vast undertaking at all. Things turned out differently, of course.

WSWS: What do you think was the connection between the California criminal charges and the Ken Starr investigation?

MG: I have now come to learn the answer after the fact. During the discovery phase for the criminal contempt case in Arkansas we learned the government had been taping Susan when she was in these various prison facilities. It was apparent to me after listening to the tapes of the conversations between her and her mother that the federal facility in Texas where she was being held was probably the cushiest federal facility in the country. They knew she was not going to roll over because the environment was not that threatening.

They realized quickly that based upon the conversations she was having with her family members, she was not going to succumb to their pressure. So they pressured the Los Angeles District Attorney into service to have her dragged out to Sybil Brand. They put her in the most horrific conditions one can imagine, thinking that would break her will.

WSWS: Who is she?

MG: The Office of Independent Counsel. They went so far as to draw up for the District Attorney a writ that does not exist in California--a federal writ so they could illegally avoid what's called the interstate retainer act.

WSWS: Do you think that she would not have been prosecuted on the state criminal charges if it were not for the actions of the Office of Independent Counsel?

MG: If her name was Susan McDonald the California theft case would have never seen the light of day. While it is true that the District Attorney filed the case before the Office of Independent Counsel case came to light, what came to light afterwards is that the Office of Independent Counsel propped the case up, and then promised Susan that this case would be made to go away if she cooperated and told them what they wanted to hear.

WSWS: So she actually got that offer from the Office of Independent Counsel?

MG: She got an offer from the Office of the Independent Counsel to make the case go away. I got a memo substantiating the offer after the court ordered them to turn it over to us.

WSWS: Isn't the Los Angeles District Attorney supposed to make his own decisions?

MG: Yes, and the OIC publicly acknowledged that. They kept protesting their noninvolvement, saying "We're the Feds, we can't do

that."

What's very interesting is that their star witness was David Hale. David Hale also had a state criminal case pending against him. When he decided to cooperate, Starr went to bat for him and tried to get the state case dismissed.

WSWS: *Was he successful in getting it dismissed?*

MG: No, he was not. He had a District Attorney who would not roll over for him. In fact, they then investigated that District Attorney in Little Rock.

WSWS: *Starr did?*

MG: Yes, because he wouldn't go along with the program. The guy ended up losing an election, I think.

They had a whole conspiracy theory as to what they thought was going on with this District Attorney. They started to tar and feather him, saying he was being pressured by the insurance commissioner who was in cahoots with Governor Tucker, Susan's codefendant, and so forth. This investigation received no media attention at all.

They always spin these conspiracy theories. They did it in Susan's case. One of the jurors, it was reported, had brought a law book into the deliberations. The law book belonged to a former Supreme Court justice in Arkansas.

As soon as they found it out they wanted the juror, whom they did not want deciding the case anyway, removed. When they couldn't talk the judge into it, they created a whole scenario about how this justice was jury tampering and must have given this book to this guy because he had at one time made a derogatory comment about the Office of Independent Counsel's prosecution of Webster Hubbell.

I said to the judge, "Why don't we bring the Supreme Court justice in here rather than just let them libel and slander him? When we did, it turned out that the guy had sold his house to the juror three years ago. He left his books in the house when he moved and had no contact with him since. They just spun a whole tale of jury tampering, libeling a former state Supreme Court justice. They just create big lies.

They go after anybody who's not on their program. If you're on their program then you're fantastic. If you're not on their program, like Julie Hiatt Steele, they start accusing you of flip-flopping and this and that.

Mind you, they put three grand jurors on the stand during our trial and all three of those jurors testified they that they were never told by the Office of Independent Counsel that David Hale was paid \$60,000 dollars, that David Hale shaved 60 years off of his sentence, that David Hale had pending state charges Starr was trying to help him with.

They were never told that Jim McDougal shaved 80 years off his sentence, that Jim McDougal changed his story 12 times over 50 interviews, that Jim McDougal, when confronted with objective evidence that his story didn't make any sense as testified to by an FBI agent, would just change his story again until he supposedly got it right. None of that was presented to the grand jury.

WSWS: *Have you been contacted about becoming involved in Julie Hiatt Steele's defense?*

MG: I've talked to Julie and her defense attorney on a number of occasions. I am at their disposal to do whatever they want. However, back here in California there are judges who have been very patient with me, and last thing I could do is start a new trial a week after next.

WSWS: *Why did Julie Hiatt Steele testify in Susan's federal case in Arkansas?*

MG: I subpoenaed her because Susan's defense was based on the practices of the Office of Independent Counsel. Susan said, "If I don't testify to their script, they will prosecute me," and that's exactly what happened to Julie Steele. Julie Steele testified in front of the grand jury and gave three and a half hours worth of interviews to the FBI. When she wouldn't "clarify" her testimony to conform to Kathleen Willey's, they charged her with obstruction of justice.

The fact that Julie testified for Susan when Julie herself is facing criminal charges is very unusual. Her lawyer recommend that she not testify, but she said she was just wasn't going to be run over by this guy Starr. She was just going to stand up and say what he has done, the lives he's ruined. It was an interesting thing. All the men rolled over in this case. It was the women who stood up: Julie Hiatt Steele and Susan McDougal.

WSWS: *Can you explain what your defense to the contempt charges was? It was open-and-shut that she refused to answer questions after being ordered to do so, wasn't it?*

MG: There was a valid court order and she violated it. We really didn't contest that. But there is an element of willfulness for the crime of contempt--her state of mind. Willfulness means it must be intentional, deliberate, and not by accident, mistaken, or innocent reason. We said there was an innocent reason. Susan's innocent reason was that she had seen that this guy, Ken Starr, was not after the truth. He wanted her to lie. "Innocent reason" became the linchpin for her defense.

WSWS: *What do you think is behind the Starr investigation?*

MG: What's driving him? Partisan politics, pure and simple. He has a political agenda. Just look at the circumstances surrounding his appointment. He's indicted people for less than that meeting between Judge Sentelle, Lauch Faircloth and Jessie Helms that took place when they decided to remove Robert Fiske as Independent Counsel and appoint Ken Starr. My belief is that you had two senators from a tobacco state and they had a president who was anti-tobacco and they wanted to remove this guy one way or another. Who better than tobacco lawyer Ken Starr and his \$1.1 million annual law practice income?

WSWS: *We've been very critical of Clinton and the Democrats for not standing up to these forces. What is your assessment?*

MG: I know. My feeling is the original person who stood up was Susan. The Democrats took an awfully long time to come around as to what was going on. Now, public support for Susan cuts across party lines. Even prosecutors who I talk to here in Los Angeles are rooting for her because this guy gives prosecutors a bad name. It's not how the game is supposed to be played.

WSWS: *What is your assessment of how the media has treated this story?*

MG: Well, the media has created and generated and formatted this story from the beginning, yet they have been oblivious until as of late about the conduct of Starr. It never ceased to amaze me how these things were pointed out a year and a half ago. Nobody in the media wanted to hear it.

All they wanted to ask me about was, "Did Susan have sex with Clinton?" Even during the trial, the media was obsessed with sex. Plus a large portion of the media was fed in the trough of the Independent Counsel.

WSWS: *What kind of reaction are you getting from the general public to what you've been doing?*

MG: In Arkansas, when I would jog in the morning, people would honk, roll down their windows and give me a thumbs up. I think you could go anywhere in Little Rock and people were overwhelmingly supportive. The reaction in Los Angeles has been much the same. It's been quite an usual experience for me as a criminal defense lawyer.

WSWS: *What are the chances of another trial on the contempt counts that the jury deadlocked on?*

MG: I read a newspaper article which said that only a legal madman would re-try this woman. I couldn't say it any better than that.

WSWS: *Do you think Starr could be such a "legal madman?"*

MG: Yes, and so I'm apprehensive about it on Susan's behalf. On the other hand, I would love nothing more than to go down there and have another go at them.

WSWS: *This judge wasn't giving you much leeway, was he?*

MG: No, not at all. As a matter of fact he granted nine and a half out of

ten of their motions to exclude my evidence relating to the Starr investigation. So when people say that we were given great leeway, take a look at the record. This judge is a very restrictive, even tempered, federal district court judge. He was by no means a soft touch. He is fair and tries to run a fair courtroom and tries to give you a fair trial, but he wasn't giving us any leeway.

WSWS: *Does Susan have a legal defense fund?*

MG: She does. Post Office Box 7015, Santa Monica, California 90406. We would appreciate any support your readers can give us.



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