

# McDougal acquittal deals a major blow to Starr investigation

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The decision of an Arkansas jury to acquit Susan McDougal on obstruction of justice charges is a major defeat for Independent Counsel Kenneth Starr. The jury's action demonstrates the broad popular opposition to the Starr investigation and to the extreme right-wing elements which stand behind it.

The jurors deadlocked on the two lesser charges of contempt of court, with seven favoring acquittal and five conviction. After polling the jury, Judge George Howard declared a mistrial on the contempt charges.

Judge Howard allowed the defense to present extensive testimony to substantiate McDougal's contention that she had refused to testify before the federal grand jury convened by Starr in Little Rock because she mistrusted the special prosecutor. McDougal took the stand herself to explain that she believed she would have been framed for perjury if her testimony on the Whitewater affair did not proceed according to the script laid down by Starr's prosecutors, which required her to incriminate Bill and Hillary Clinton.

In response to her refusal to testify, Starr had McDougal imprisoned for 18 months on civil charges of contempt of court. She was released from prison after the term of the grand jury expired, but the special prosecutor then filed new charges of criminal contempt and obstruction of justice based on McDougal's continuing refusal to cooperate.

In her testimony last month McDougal answered publicly under oath all the questions she had refused to discuss behind closed doors with the Office of Independent Counsel.

Another victim of prosecutorial abuse, Julie Hiatt Steele, also testified about Starr's methods. Steele is to go on trial next month in Virginia on perjury charges, after she contradicted testimony by Kathleen Willey about alleged sexual advances made by Clinton. She told the Arkansas jury that Starr's prosecutors had gone so far as

to investigate her adoption of a Romanian orphan, now eight, in an effort to intimidate her.

McDougal's lead attorney Mark Geragos, defending a client who openly admitted that she had defied a court order to testify, sought to make the central issue in the trial the methods and legitimacy of the Starr investigation itself. In his closing argument he urged the jury to "stand up and say 'enough is enough.' "

Judge Howard sought to limit the anti-Starr argument by instructing the jury that McDougal's state of mind in relation to the Starr investigation could only be considered in relation to the obstruction of justice charge, not the contempt of court charges. This instruction was widely seen by courtroom observers as tantamount to directing the jury to convict McDougal on the contempt charges, since there was no dispute over the fact of her refusal to testify.

According to the accounts of several jurors, they voted to acquit McDougal of obstruction of justice after the first hour of deliberations. This was their near-unanimous sentiment as soon as they began deliberating, with only one juror even expressing uncertainty in the initial discussions.

They became bogged down, however, on the contempt of court charges. A majority of the jurors, seven to five, were prepared to defy Howard's explicit instructions and vote to acquit based on McDougal's state of mind. On several occasions they sent questions out to the judge, asking him to define what an "innocent reason" could be for McDougal's refusal to testify.

At one point the jurors asked whether they could consider an "innocent reason" even in the case of someone "willfully" refusing to testify--in effect asking the judge whether they could find McDougal innocent even though technically guilty. Judge Howard simply reiterated his written instructions.

Several jurors spoke with reporters after the mistrial was

declared and confirmed that a great majority of the jury were hostile to the Starr investigation and believed McDougal had legitimate reason to be fearful. One anti-Clinton juror said that some his fellow jurors "just hated the independent counsel" and "were just not going to give any ammunition to them to help get the President."

Two jurors who differed on the contempt verdict agreed that the most effective witnesses for the defense, besides McDougal herself, had been Julie Hiatt Steele and Steve Smith, an Arkansas lawyer and former Clinton aide who testified about being bullied by Starr's prosecutors.

Jury foreman Donald Thomas, a factory supervisor, said in an interview that many of his fellow jurors believed that McDougal's apparent fear of cooperating with Starr constituted an "innocent reason" under the law to justify her actions. "That was a big point for us," he said. "She said she was afraid of being prosecuted for perjury if she testified, and ... I don't think she was blowing smoke."

Susan McDougal and her attorneys and supporters were jubilant after the verdict and the mistrial were announced. McDougal said the obstruction charge "was the big count" because in deliberating that charge the jury was allowed to consider "whether or not Ken Starr was seeking the truth."

"I've always said from the very first day I met with them that I did not believe they wanted to hear the truth," Mrs. McDougal said.

"The great thing for me was not the verdict, it was more that I got my day in court," she added, "and I got to tell everything that I had been wanting to tell for years, and we got to put on evidence of the lives that Kenneth Starr has ruined."

Defense attorney Mark Geragos--who had privately predicted a guilty verdict on the contempt charges after the judge's instruction--was elated. "It doesn't get any better than this," he said. "If anything should put a stake through the heart of Ken Starr, this should be it... Now you've got 12 Arkansans saying that Ken Starr was seeking anything but the truth."

While public sentiment in Arkansas, the focus of much of Starr's heavy-handed intimidation of witnesses, is extremely hostile to the independent counsel, there is no question that the McDougal verdict reflects a broader popular hostility to the right-wing campaign against the Clinton White House.

Even newspapers like the *New York Times*, which have vociferously defended Starr's investigation, were compelled to describe Susan McDougal as one of the most popular public figures in Little Rock, constantly

greeted on the street by strangers who express their sympathy and denounce Kenneth Starr. In its editorial on the verdict, the *Times* advised to Starr "to bring his inquiries to a close. He should renounce any plans to pursue a retrial of Ms. McDougal ... and should expedite his final reports to the court."

Despite the political significance of the McDougal verdict, however, this decision was almost overshadowed in the American media by the release, three hours later, of a ruling by US District Judge Susan Webber Wright finding Clinton guilty of contempt of court for lying about his relations with Monica Lewinsky during his deposition testimony in the Paula Jones lawsuit.

Wright's ruling was given banner headlines in the press, but it is unlikely to have major legal or practical effect. The federal judge had suggested in February, after the impeachment trial was concluded in the Senate, that she would cite Clinton for contempt of court for his denial of the Lewinsky affair in his sworn replies to interrogatories and his deposition testimony on January 17, 1998.

She withheld releasing her opinion until after the jury verdict in the Susan McDougal trial, which was being conducted in a different courtroom in the same federal courthouse in Little Rock. Wright indicated in her ruling that Clinton's false testimony had no effect on the Paula Jones lawsuit and that she would still have dismissed the suit as groundless even if he had admitted the affair.

The penalties Wright imposed are relatively minor. Clinton was ordered to reimburse the court \$1,202 to cover the cost of travel for Judge Wright and her clerk in attending the deposition in Washington, and to reimburse Paula Jones for legal expenses directly related to this testimony--a sum estimated to be in five figures. Clinton also could have his Arkansas law license suspended or revoked.

Wright dismissed several other possible contempt charges against Clinton, as well as charges against attorneys for both Clinton and Jones for leaking sealed deposition material to the press. Indicating that she did not wish the contempt charges to become a long-drawn-out legal proceeding, she wrote, "It is in the best interests of the president and this court that this matter be expeditiously resolved."



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