

Judge orders former Cheney aide Lewis Libby to begin serving prison sentence

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16 June 2007

US District Judge Reggie B. Walton on Thursday rejected the request of I. Lewis (“Scooter”) Libby, the former chief of staff to Vice President Dick Cheney, that he remain free pending the outcome of appeals on his perjury and obstruction of justice conviction in connection with the exposure of former CIA operative Valerie Plame Wilson.

Libby was convicted by a jury on March 6 of lying to FBI agents and a federal grand jury investigating the leak of Plame Wilson’s CIA identity in July 2003. Top Bush administration officials, including Libby and Bush’s chief political adviser Karl Rove, informed a number of reporters of Plame Wilson’s CIA status in an attempt to punish her husband, former ambassador Joseph Wilson, who had published a column in the *New York Times* exposing administration lies about alleged Iraqi nuclear weapons programs.

The investigation carried out by Special Counsel Patrick J. Fitzgerald showed that Vice President Dick Cheney personally told Libby and other officials to speak with selected journalists and inform them of Plame Wilson’s CIA position. The dirty tricks operation was an effort to intimidate critics of Bush’s Iraq war policy. One of the reporters to whom Plame Wilson’s CIA identity was fed, right-wing columnist Robert Novak, went public with the information in his syndicated column.

The CIA leak became a focal point of a struggle within the US state apparatus, fueled by the growing debacle of the US invasion and occupation of Iraq. CIA officials publicly demanded that those who leaked Plame Wilson’s identity be held accountable, and under that pressure, the Justice Department in December 2003 selected Fitzgerald, the US attorney in Chicago, as special prosecutor.

On June 5, Judge Walton sentenced Libby to 30 months in prison, ruling separately against allowing Libby to remain free pending the outcome of his appeals. However, Walton allowed Libby’s lawyers to file briefs on the

matter. On Thursday, in a two-hour hearing, Walton turned down the defense briefs and ordered Libby to prison.

Walton said “the evidence of guilt was overwhelming” and arguments by Libby’s lawyers for his release were “not close.” He was especially caustic when Libby’s lawyer noted that 12 law professors, including Alan Dershowitz of Harvard (the group also included the failed Supreme Court nominee Robert Bork), had submitted a brief arguing that Libby should be given bail because his legal appeal might be accepted by a higher court. Walton said the brief was not even as good “as I would expect from a first-year law student.”

The ruling means that unless Walton’s denial of bail is overturned by a higher court, or President Bush intervenes with a pardon, Libby will begin serving his prison term within six to eight weeks. Following the hearing, Libby was escorted out of the courtroom through a side door by federal marshals. After surrendering his passport and filling out forms, he was temporarily released.

The Bureau of Prisons will now review Libby’s case and select a location for his incarceration. It is expected Libby will be assigned to a minimum-security prison camp in Maryland, Virginia or New Jersey.

Libby’s lawyers said they would file an emergency appeal to overturn Judge Walton’s denial of bail; however, reversals of bail rulings by trial judges are extremely rare.

Under federal sentencing guidelines, Libby stands to serve at least 80 percent of his sentence, or two years. If he goes to prison, he will become the first high-level White House official to do so since Watergate, when several of Richard Nixon’s top aides, including H.R. Haldeman and John D. Ehrlichman, served jail terms.

Walton’s ruling ratchets up the political pressure on the White House over a pardon for Libby. The administration and Libby’s allies had hoped that the judge would agree

to let Libby remain free for the duration of the appeals process, which will likely extend past the 2008 presidential election. This would have enabled Bush to prevent Libby from serving any jail time by pardoning him in the final days of his administration, when such an unpopular action would have no effect on Republican chances in the 2008 elections.

There is a precedent for such action that is close to home. At the end of his term, on December 24, 1992, another lame duck president, the senior George Bush, pardoned six Reagan administration officials who had been indicted or convicted of perjury and/or obstruction of justice in connection with the Iran-Contra affair. These included Reagan's Defense Secretary Caspar Weinberger, National Security Council official Elliot Abrams, and Reagan's National Security Adviser, Robert McFarlane.

The conduct of the jury trial by Libby's defense team suggested that an agreement may have been reached for Bush to pardon Libby in the event of a guilty verdict. While Libby's attorney initially suggested, in his opening remarks at the trial, that Libby was being served up as the fall guy for higher-level Bush administration officials—a clear reference to Karl Rove and Cheney himself—the defense never introduced any evidence along these lines and did not pursue the claim of scapegoating. The most plausible explanation is that Libby had received assurances of a presidential pardon, provided he maintained his silence.

Ever since Libby's conviction, and even more so after the relatively stiff sentence handed down by Judge Walton, the far-right media and a faction of the Republican Party have been clamoring for Bush to issue an immediate pardon. The *Wall Street Journal* and other organs of the Republican right have denounced Bush for his professed unwillingness to act while the judicial process is still underway. The right-wing campaign to "free Libby" will only intensify in the wake of Thursday's ruling and the noncommittal official response from the White House.

The White House press office issued a statement declaring, "Scooter Libby still has the right to appeal, and therefore the president will continue not to intervene in the judicial process."

Chief White House spokesman Tony Snow, in reply to a question about a pardon, reiterated the official position, saying, "What the president has said is let the legal process work itself out. We're just not engaging in that right now."

Some legal experts have suggested that Bush might

eventually adopt a middle course, allowing the conviction to stand but commuting the sentence to reduce or eliminate Libby's jail time.

The hypocrisy of the attempt to portray Libby as the victim of a political vendetta is brazen. Judge Walton, himself a conservative Republican, was one of the first federal judges appointed by Bush in 2001.

Moreover, the same forces that are now dismissing as insignificant Libby's perjury conviction leveraged Clinton's false statements to a grand jury in the Monica Lewinsky affair into the legal foundation for the first-ever impeachment of an elected president. At the time, the Republicans proclaimed that lying under oath, no matter about what, was tantamount to destroying the constitutional foundations of the American republic.

Clinton lied about a private relationship that had no connection to his official duties as president. Libby, on the other hand, played a prominent role in the political conspiracy to use concocted intelligence on weapons of mass destruction and lies about supposed ties between Saddam Hussein and Al Qaeda to drag the American people into an illegal war of aggression.

The character of the forces between whipped up in the right-wing campaign for Libby was indicated in an extraordinary statement by Judge Walton at Thursday's hearing. He said he wanted to put on the record the fact that he had received threatening letters.

Since his sentencing of Libby last week, Walton announced, he had received "angry, harassing, mean-spirited" letters and phone calls "wishing bad things on me and my family." He added that he had decided to keep copies for investigators in the event that he became the victim of foul play.



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