

Judge dismisses Plame/Wilson suit against Bush administration officials

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A federal judge dismissed on Thursday a case brought by Valerie Plame Wilson and her husband, former ambassador Joseph Wilson, against top Bush administration officials, including vice president Dick Cheney and former White House aide I. Lewis Libby. Judge John Bates of the US District Court for the District of Columbia, a Bush appointee, ruled that the court did not have jurisdiction to hear the case.

The civil suit sought personal monetary damages, arguing that the constitutional rights of Plame and Wilson were violated when government officials leaked to the press the fact that Plame was a CIA agent. Those leaks in 2003 came shortly after Joseph Wilson exposed a key element of the Bush administration's rationale for war against Iraq as a lie.

In addition to Cheney and Libby, the case named former Deputy Secretary of State Richard Armitage and White House political advisor Karl Rove, the two men who were actually the sources for the column by right-wing commentator Robert Novak exposing Plame's CIA role.

It was clearly established at Libby's perjury trial that the exposure of Plame was a deliberate act of political retaliation against Wilson for his public attack on the Bush administration in an op-ed column in the New York Times in early July 2003.

In the lawsuit, Wilson charges that his free speech rights were violated through an attempt to silence him by exposing his wife's covert role, while Plame has argued that her due process and privacy rights were violated.

Bates admitted the lawsuit raised "important questions relating to the propriety of action undertaken by our highest government officials," but said the law protects government officials from civil suits brought consequent to actions arising from official duties.

"The act of rebutting public criticism ...by speaking with members of the press is within the scope of defendants' duties as high-level executive branch officials," Bates wrote. This assumes that the aim of the Bush administration officials in revealing Plame's identity was to "rebut public criticism," and not to silence an Iraq war critic.

Bates also ruled that there were other mechanisms by which Plame and Wilson could seek remedy, including through the federal Privacy Act, and that this invalidates claims of remedy for constitutional violations.

Erwin Chemerinsky, a Duke University law professor and lawyer for Plame and Wilson, said that courts have ruled that the Privacy Act cannot be applied to the vice president and president. "Our argument is, you cannot preclude a civil suit based on a statute that gives no remedy," he told the *Los Angeles Times*.

The court action, if upheld on appeal, would close off one more avenue of accountability for top administration officials. No one has been charged directly for the leak of Plame's name, though Libby was found guilty of lying and obstruction of justice in the criminal investigation overseen by special prosecutor Patrick Fitzgerald. Early this month, Bush commuted Libby's 30-month prison sentence, and the president has held out the possibility of a complete pardon before he leaves office.

The underlying crime for which these top administration officials are guilty—the launching of the Iraq war—continues to go untouched. The civil suit by Plame and Wilson was limited to question of political retaliation against a critic within the foreign policy establishment, and turned legally on the reactionary precept of keeping secret the identity of covert CIA operatives.

In dismissing the case, Bates is clearly performing a service for the Bush administration. He was appointed by Bush in December 2001, and has a long history of involvement in right-wing and anti-democratic operations.

From September 1995 to March 1997, Bates served as Deputy Independent Counsel under Kenneth Starr during the Whitewater investigation. Bates came on board shortly after Starr was brought in to replace Robert Fiske—a move aimed at stepping up pressure on the Clinton administration.

Bates was an early Bush appointee to the District of Columbia court, and was part of an attempt to pack the courts with right-wing justices. One of his most important decisions was in 2002, when he threw out a case challenging an early assertion by the administration of wide executive power and secrecy claims.

The case was brought by Comptroller General David Walker, then the head of the General Accounting Office (now known as the Government Accountability Office), in an attempt to force Cheney to release the names of those involved in the vice president's Energy Task Force deliberations. In these discussions, Cheney and top executives at energy companies discussed the administration's energy policy. They also reportedly discussed plans to invade Iraq and divide up the country's oil fields.

Bates found that Walker did not have standing because he was not personally injured by the decision of the White House to withhold the documents. Information on these meetings has still not been released.

In February 2006, Bates was appointed by US Supreme Court Chief Justice John Roberts, a strong backer of expansive executive power, to serve on the US Foreign Intelligence Surveillance Court (the FISA Court). Bates replaced Judge James Robertson, who resigned from the FISA Court in a move that was reported to be a protest against the Bush administration spying programs.

The FISA Court is tasked with granting warrants for spying on suspected foreign intelligence agents in the US. In its NSA spying programs, however, the administration has sought broad powers to carry out warrantless surveillance of communications into and out of the US.



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