

Department of Justice

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STATEMENT OF LOUIS V. FRANKLIN, SR.,
ACTING U.S. ATTORNEY IN THE SIEGELMAN/SCRUSHY PROSECUTION

"Neither I nor the U.S. Attorney's Office for the Middle District of Alabama (MDAL) have heretofore seen the affidavit referenced in Time's article, initially entitled "Rove Linked to Prosecution of Ex-Alabama Governor," and later changed to "Rove Named in Alabama Controversy," stated Louis V. Franklin. "Thus, I cannot speak to the affidavit itself or to the specific allegations made by Dana Jill Simpson except to say that its timing is suspicious, and other participants in the alleged conversation say it didn't happen, most notably Terry Butts, who represented Richard Scrushy during the trial of this case.

I can, however, state with absolute certainty that the entire story is misleading because Karl Rove had no role whatsoever in bringing about the investigation or prosecution of former Governor Don Siegelman. It is intellectually dishonest to even suggest that Mr. Rove influenced or had any input into the decision to investigate or prosecute Don Siegelman. That decision was made by me, Louis V. Franklin, Sr., as the Acting U.S. Attorney in the case, in conjunction with the Department of Justice's Public Integrity Section and the Alabama Attorney General's Office. Each office dedicated both human and financial resources. Our decision was based solely upon evidence in the case, evidence that unequivocally established that former Governor Siegelman committed bribery, conspiracy, mail fraud, obstruction of justice, and other serious federal crimes.

Our decision to prosecute Don Siegelman and Richard Scrushy was based upon evidence uncovered by federal and state agents, as well as a federal special grand jury which convened in the case. The investigation was precipitated by evidence uncovered by a Mobile investigative reporter, Eddie Curran, and a series of stories written by him. The investigation began about the time an article appeared in the Mobile Press-Register alleging an improper connection between then-Governor Siegelman and financial supporter/businessman/lobbyist, Clayton "Lanny" Young, months before Leura Canary was appointed as the U.S. Attorney for the MDAL.

When the investigation first began, Leura Canary was not the U.S. Attorney for the MDAL. Initially, the investigation was brought to the attention of the Interim U.S. Attorney, Charles Niven, a career prosecutor in the U.S. Attorney's Office. Niven had almost 25 years of experience as an Assistant U.S. Attorney in the office prior to his appointment as Interim U.S. Attorney upon U.S. Attorney Redding Pitt's (currently attorney of record for Defendant

Siegelman in this case) departure.

Ms. Canary became U.S. Attorney in September 2001. In May 2002, very early in the investigation, and before any significant decisions in the case were made, U.S. Attorney Leura Canary completely recused herself from the Siegelman matter, in response to unfounded accusations that her husband's Republican ties created a conflict of interest. Although Department of Justice officials reviewed the matter and opined that no conflict, actual or apparent, existed, Canary recused herself anyway to avoid even an appearance of impropriety. I, Louis V. Franklin, Sr., was appointed Acting U.S. Attorney in the case after Charles Niven retired in January 2003. I have made all decisions on behalf of this office in the case since my appointment as Acting U.S. Attorney. U.S. Attorney Canary has had no involvement in the case, directly or indirectly, and has made no decisions in regards to the investigation or prosecution since her recusal. Immediately following Canary's recusal, appropriate steps were taken to ensure that she had no involvement in the case. Specifically, a firewall was established and all documents relating to the investigation were moved to an off-site location. The off-site became the nerve center for most, if not all, work done on this case, including but not limited to the receipt, review, and discussion of evidence gathered during the investigation.

After Canary's recusal, the investigation proceeded much like any other investigation. Federal and state agents began tracking leads first developed by investigative reporter Eddie Curran, leads that eventually led to criminal charges against local architect William Curtis Kirsch, Clayton "Lanny" Young, and Nick Bailey, an aide to the former Governor. Kirsch, Young, and Bailey pled guilty to informations charging violations of federal bribery and/or tax crimes on June 24, 2003.

Armed with cooperation agreements from Bailey, Young and Kirsch, the investigation continued. In June 2004, a special grand jury was convened to further assist in the investigation. An indictment was returned under seal against Mr. Siegelman and ex-HealthSouth CEO Richard Scrushy on May 17, 2005. The first superseding indictment was filed and made public on October 26, 2005, charging Siegelman, Scrushy, Siegelman's former Chief of Staff Paul Hamrick, and Siegelman's Transportation Director Gary Mack Roberts. Immediately after the indictment was announced, Messrs. Scrushy and Siegelman publicly denounced the indictment and personally attacked the prosecutors. Those attacks have continued throughout the case and have now escalated to charges that Karl Rove had something to do with this investigation or prosecution. These charges are simply untrue.

The indictment was solely the product of evidence uncovered through an investigation that began before Leura Canary became U.S. attorney and continued for three years after she recused herself. I have never spoken with or even met Karl Rove. As Acting U.S. Attorney in the case, I made the decision to prosecute the former Governor. My decision was based solely on the evidence uncovered by federal and state agents, as well as the special grand jury, establishing that Mr. Siegelman broke the law.

During the investigation, I consulted with career prosecutors in the Public Integrity Section of Main Justice to obtain guidance on the prosecution of the former Governor, but I alone

maintained the decision-making authority to say yea or nay as to whether or not the U.S. Attorney's Office for the MDAL would proceed with the prosecution. Contrary to how the prosecution is portrayed in Adam Zagorin's Time article, rather than the U.S. Department of Justice pushing the MDAL to move forward with the prosecution of former Governor Siegelman, the push has always come from the Middle District's U.S. Attorney's Office and has been spearheaded by me as the Acting U.S. Attorney in the case. My sole motivation for pushing the prosecution was a firmly held belief, supported by overwhelming evidence and the law, that former Governor Siegelman had broken the law and traded his public office for personal and political favors. Ultimately, a jury of former Governor Siegelman's peers, consisting of men and women, African-American and Caucasian, agreed and convicted the former Governor of conspiracy, accepting bribes, and obstructing justice.

I am a career Assistant U.S. Attorney in the Middle District of Alabama. I have served under both Democratic and Republican appointees. I take my role as a government prosecutor and my ethical obligations as a lawyer very seriously. I value my integrity above all else. I would never pursue a prosecution for political reasons, nor would I bring any prosecution not warranted by the evidence or the law. That simply did not happen here, no matter what anyone prints.

In the public interest, one other matter needs to be addressed. Former Gov. Siegelman and Richard Scrushy and others speaking on their behalf have made public claims that the sentence recommended by the United States is excessive. The sentence recommended is appropriate under the advisory U.S. Sentencing Guidelines when all of the relevant conduct associated with this case is weighed as required by the Guidelines and well established federal law. As in all other cases prosecuted by this office, the recommended sentence is reasonable under the Guidelines and existing federal law. The recommended sentence, in brief, is calculated as follows:

base offense level for bribery - 10;
amount of loss and/or expected gain - add 20 levels;
more than one bribe - add 2 levels;
obstruction of justice - add 2 levels;
organizer/leader in the offense - add 4 levels;
upward departure for systematic pervasive government corruption - add 4 levels.

The resulting adjusted guideline level of 42 and criminal history category of I results in a guideline range of 360 months to life imprisonment. Specific justification and explanation for this recommendation is fully articulated in the United States Sentencing Memorandum (Document Number 589) and United States Motion for Upward Departure for Systematic Pervasive Corruption (Document Number 591). These documents are available through accessing the Court's Pacer system."