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March 30, 2009

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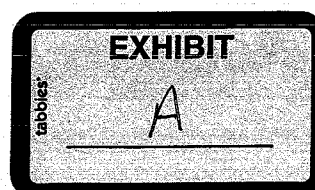
Re: *United States of America v. Michael Recio; In the United States District Court for the Southern District of Mississippi; Criminal No. 3:08-cr-00107DPJ-LRA-2*

Dear Ms. King:

This is to request a meeting with you concerning the continued prosecution of the above-referenced matter. The defendant, Michael Recio, was previously acquitted in Mississippi Circuit Court of felony charges for conduct essentially the same as the current federal charges. Thereafter, he was indicated by a federal grand jury for this conduct. The trial of that case concluded in a hung jury and rumor has it that a majority of the jurors voted to acquit Mr. Recio. The Department of Justice has decided to proceed with yet another trial on this indictment which is set for May 11, 2009.

The Department of Justice's Petite Policy requires federal prosecutors to satisfy three (3) prerequisites in order to initiate prosecution of a case in which a state court has acquitted a defendant on substantially the same acts. These requirements are: 1) that the matter involves a substantial federal interest; 2) that the prior prosecution left that interest demonstrably unvindicated; and 3) that the defendant's conduct constituted a federal offense and the admissible evidence will be sufficient to obtain and sustain a conviction. I assume those guidelines were considered when deciding to prosecute the case in federal court. However, in the case of defendant Recio, I believe these guidelines, if applied, were misapplied and have resulted in a miscarriage of justice.

At the time of the indicted incident Officer Michael Recio was a sworn police officer of the Jackson, Mississippi Police Department. His assignment was to serve as bodyguard/driver for the co-defendant, Jackson, Mississippi, Mayor Frank Melton and he was serving in that capacity at the time of the alleged conduct charged in the indictment. Recio's duty was to stick with the mayor, go where he goes, protect him from danger,



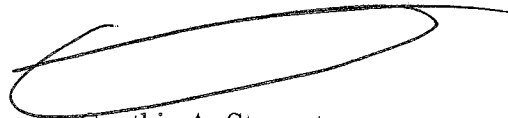
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and take a bullet for him if necessary. On the night in question, Officer Recio went on the property in question with clean hands and came off the property with clean hands. He stuck with the mayor in his capacity as bodyguard or was in the Jackson Police Department command vehicle. He did nothing to instigate the activity, encourage it, or participate in it. In fact, he prevented his own son from participating and he was instrumental in rounding up the participants and getting them back on the Jackson Police Department command vehicle.

When you measure Officer Recio's activity on the night in question and the subsequent trials against the yardstick of the Petite Policy, it comes up short on satisfying the three (3) criteria. While the Department of Justice does have a substantial interest in protecting the Fourth Amendment and a violation of that amendment by the mayor of a city may satisfy the first criteria of the Petite policy, however, it certainly ought not apply to the dutiful bodyguard/driver of that mayor. Assuming that there is a federal interest with respect to Officer Recio, it has been demonstrably vindicated by two (2) prior trials and a pending third trial and all that goes with that. He has been suspended as a police officer and is on a leave of absence. He draws only the base pay which is barely above the poverty line, has a wife and three (3) children, and is three (3) months behind on his house payments. Foreclosure is next. Further, there is the humiliation to him and his family of the constant news media coverage. How much revenge is necessary to satisfy the tenuous federal interest in Officer Recio? The third criterion of evidence sufficient to sustain a conviction is problematic. There has been an acquittal and a hung jury. A careful examination of the evidence and the credibility of the witnesses will lead the impartial examiner to an acquittal or hung jury in the case of Officer Recio.

For the foregoing reasons, I request that you reconsider the decision to prosecute Officer Michael Recio and dismiss the indictment against him. In that connection, I further request that you permit me to meet with you in Washington, D.C. at your convenience

Sincerely,



Cynthia A. Stewart

CAS/tls

cc: Michael Recio