

Obstruction Trial May Jog Libby's Memory

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Attorneys representing Vice President Dick Cheney's former chief of staff in the CIA leak case believe they have a rock solid defense to present in their client's perjury and obstruction of justice trial expected to begin next year.

In numerous court filings over the past few months, lawyers for I. Lewis "Scooter" Libby have maintained that their client did not intentionally lie to federal investigators and a grand jury regarding the role he played in the leak of covert CIA operative Valerie Plame Wilson during the summer of 2003.

Instead, Libby's attorneys have said that their client was dealing with other, more crucial matters, such as the Iraq war, terrorism, and national security and simply forgot about how he first learned that Plame was employed by the CIA when he told the grand jury - untruthfully - that a reporter told him that she worked for the spy agency.

However, that defense strategy may unravel when Special Prosecutor Patrick Fitzgerald calls to the stand some of Libby's former White House colleagues who have promised to tell a much different story about Libby's alleged memory lapse, according to six sources close to Fitzgerald's investigation.

A secretary for Ted Wells, one of Libby's defense attorneys, said Wells was traveling. The secretary wrote down questions for Wells and said she passed them on to him. But he did not respond. A second and third attempt to reach Wells was unsuccessful.

Libby was indicted in October on five-counts of perjury, obstruction of justice, and lying to investigators about his role in the leak. The case grew out of a 2002 intelligence query from the vice president's office about Iraq's attempts to purchase uranium from Niger. Cheney asked the CIA for information on a report claiming Iraq tried to purchase 500 tons of yellowcake uranium from the African country.

In response to Cheney's questions, the CIA sent former Ambassador Joseph Wilson on a fact-finding mission to Niger to investigate the claims. Wilson's wife, Valerie Plame Wilson, was working undercover at the CIA at the time and told her superiors that her husband had good contacts in Niger. When Wilson returned, he reported back to the CIA that the uranium intelligence was bogus.

But in January 2003, President Bush in his State of the Union address cited Iraq's attempts to purchase uranium as a sign of President Saddam Hussein's interest in acquiring nuclear weapons. In July, Wilson wrote an op-ed column for the New York Times saying the administration "twisted" intelligence on the Iraqi threat and inserted the uranium claims into the president's State of the Union address to win support for the war.

Some of the officials who worked with Libby in the office of the vice president and who are said to have faced criminal charges in the case have made deals with the special prosecutor in exchange for their testimony, sources close to the case said.

Other officials who work or worked in the State Department, the CIA, and the National Security Council at the time of the leak have also decided to cooperate with Fitzgerald; however, it's unknown whether these people faced any criminal charges before agreeing to testify at a trial.

Libby was questioned by investigators twice in 2003 – in October and November – and he testified in 2004, repeating the answers to questions he had provided to investigators months earlier: that he did not retaliate against the ambassador's criticism of the administration's rationale for war, and that he found out Wilson's wife worked at the CIA from reporters.

It was revealed last year that Libby had actually been a source for at least two reporters who wrote about Plame Wilson in July of 2003.

When Libby's trial begins in 2007, Libby's claim of forgetfulness is expected to be contradicted by his former colleagues who worked closely with him on foreign policy issues. These officials have told Fitzgerald over the past year that Libby continued his campaign against Wilson long after Libby and other White House officials allegedly unmasked Plame Wilson's identity to reporters in late June and early July 2003.

In September 2003, Libby is said to have first instructed his staff to monitor the Internet for any new articles related to Wilson and his wife during this time and provide him with printed versions, which he kept in a binder, the sources said.

The sources close to the case said the officials also told Fitzgerald that Libby's "obsession" with Wilson lasted well into October 2003 – the first time Libby was questioned by investigators probing the leak – and into March of 2004, when Libby testified before the grand jury.

Additionally, these officials are expected to testify at Libby's criminal trial that during the time of Libby's grand jury appearance in 2004, the time frame in which his attorneys say Libby allegedly forgot about Wilson and his wife, Libby had a packet of information on Wilson that included every comment, interview and media appearance Wilson had made since early 2003 when Wilson first started to criticize the administration's rationale for war.

Moreover, the administration officials told Fitzgerald that from September 2003 through March 2004 Libby urged White House communications director Dan Bartlett on numerous occasions to aggressively respond to Wilson's further attacks against the administration. Libby's attorneys have said in court documents that Libby had forgotten about Wilson during this time and that is the reason his grand jury testimony wasn't accurate.

Libby also discussed with Cheney and other aides to the vice president Wilson's relentless "campaign against the administration" and sought his colleagues' support for issuing a response, one person close to the investigation said.

"Mr. Libby was a lone wolf in that regard," this person said. "He did not receive any backing from the administration. Everyone thought he should just let it go."

Still, Libby's attorneys have said in several court documents that during his grand jury testimony, nearly eight months after the leak, Libby had been dealing with more serious matters and as a result he could not remember the true facts about Plame Wilson or how and when he first learned about her, because it took place months earlier.

Weeks before he was questioned by investigators probing the leak in November 2003, people close to the case said, Libby had discussed Wilson with unnamed individuals of the Republican National Committee and sought help in discrediting Wilson.

Libby reportedly became angry when Joseph Wilson's book, "The Politics of Truth," was released in April 2004. He had been closely following the book's release during the prior weeks, which coincides with his grand jury appearance, and had again pressed the White House to respond to certain passages he believed were untrue, according to sources close to the case.

"The Wilson affair was still very much on his mind," said one attorney who is representing a witness in the case. "Mr. Libby seemed to be consumed by it."

Jason Leopold is the author of the forthcoming memoir, NEWS JUNKIE, to be published in April on Process/Feral House Books. Visit www.newsjunkiebook.com for a preview and to read an excerpt

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