



DOJ Official Seeks to Clear Her Name After Contempt Charge

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A recent filing in the U.S. District Court for the District of Columbia uncovered a sidelight to the story of the botched prosecution of former Sen. Ted Stevens (R-Alaska).

In April 2009, U.S. District Judge Emmet Sullivan set aside the verdict in the criminal case against Stevens and dismissed the case on the grounds of prosecutorial misconduct. He commenced criminal contempt proceedings against six U.S. Department of Justice attorneys who were involved in the case, finding that they had failed to turn over exculpatory material to the defense.

That investigation, which is being conducted by attorney Henry Schuelke on a court appointment, continues.

However, on July 8, another attorney who was not named by Judge Sullivan for criminal contempt filed an interesting motion in the court. This was Patty Merkamp Stemler, chief of the Appellate Section of DOJ's Criminal Division. A couple of months before the probe of the six attorneys began, Sullivan held Stemler in civil contempt for failure to produce 30 documents during post-trial proceedings in the Stevens case.

However, Stemler asserts, and no one has disputed, that she wasn't involved in the failure to produce the documents.

Stemler, represented by former Solicitor General Seth Waxman, now a partner at Wilmer Cutler & Pickering Hale & Dorr, simply moved for a ruling on her



previous uncontested motion to vacate her contempt. Nothing has happened, Waxman wrote, for more than a year. And since the contempt is still in effect, Stemler is not allowed to sign her name to a brief or appear in court, “hampering the government’s advocacy in the most important criminal appellate cases.”

It’s not clear why Sullivan hasn’t ruled on Stemler’s motion. Perhaps the new motion will make it clear. Meanwhile, a well-known and highly regarded DOJ attorney remains in limbo. If there’s no evidence against Stemler, it’s improper for Sullivan to hold her feet to the fire in this manner.

This motion was discussed in [an in-depth story on the Main Justice site](#).

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