

Stevens judge calls for DOJ probe

By JOHN BRESNAHAN | 4/7/09 11:21 AM EDT

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Former Alaska Sen. Ted Stevens arrives at federal court in Washington on Tuesday.
AP Photo

An angry federal judge set aside the conviction of former Sen. Ted Stevens on Tuesday, and will pursue criminal contempt charges against the Stevens prosecution team, accusing Department of Justice prosecutors of deliberate and repeated misconduct in their handling of the corruption case against the former senator from Alaska.

In an extraordinary courtroom session, Judge Emmet Sullivan berated Justice

Department officials for failing to turn over critical evidence to Stevens' defense team both before and after his trial. Stevens was convicted of failing to report more than \$250,000 in improper gifts, and the controversy over his indictment and trial helped end Stevens' 40-year Senate career.

Sullivan will now seek criminal contempt charges against Stevens' prosecution team, including William Welch, head of the Public Integrity Section, and Brenda Morris, lead prosecutor in the case. Sullivan appointed a lawyer named Henry Schuelke to investigate the Justice Department on his own, not waiting for an internal DOJ investigation of those six lawyers.

"In nearly 25 years on the bench, I have never seen anything approaching the mishandling and misconduct that I have seen in this case," Sullivan said. "Again and again, both before and during the trial in this case, the government was caught making false representations and not meeting its discovery obligations."

When the dismissal was announced, some Stevens family members sobbed audibly, and Stevens gave a raised-fist salute to the audience. There was applause in the courtroom as the hearing concluded, and Stevens was greeted by friends, including Richard Ben-Veniste, a prominent D.C. lawyer.

Stevens himself was more grateful than bitter in his courtroom comments.

"Without your experience and vigilance, the truth would never be known," Stevens told Judge Sullivan. "I've had a long career. I served the United States for many years. Until recently, my faith in the criminal system, the judicial system, was unwavering. But what some members of the prosecution team did nearly destroyed that faith. Their conduct has consequences for me that that they will never realize and can never be reversed."

Stevens added: "Today ... my faith has been restored. ... Your actions gave me new hope that others may be spared of similar miscarriages of justice."

Paul O'Brien, a federal prosecutor brought in to handle the case following the removal of the original prosecution team, apologized to Sullivan for the failure to turn over the notes from an April 15, 2008, interview with Bill Allen, a key witness and former CEO of Veco Corp., an oil field services company.

During that interview, Allen said he could not recall having a conversation with another Stevens friend about whether the former senator was seeking a bill for renovation work performed on Stevens' home in Girdwood, Alaska. Stevens was charged with failing to disclose that gift from Allen.

"We deeply, deeply regret that this occurred," O'Brien said.

O'Brien, however, did not apologize to Stevens.

Brendan Sullivan, Stevens' attorney, said the government's failure to turn over evidence that could have exonerated the former senator was "clear, intentional, willful and tedious."

He also accused Allen of perjuring himself while testifying against Stevens.

Specifically, Brendan Sullivan pointed to the fact that Allen had originally told prosecutors and an FBI agent that he did not remember having a conversation about whether Stevens was asking for a bill for the home renovation work that sparked the investigation. Allen later told the jury that the conversation did in fact take place, telling Bob Persons that it was just Stevens "covering his ass."

“I don’t think there’s anything worse than our government putting on false evidence, manufacturing evidence, to get the upper hand,” Brendan Sullivan said.

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