

plication for Starr and Smaltz is that they have a dual assignment, of trying to nail Bill Clinton, while at the same time, covering up the Bush dirty operations. This is the type of job for which Ted Greenberg is eminently qualified.

Documentation:

Starr should be probed for conflict of interest

The most senior Federal judge in Little Rock, Arkansas has declared that Whitewater Independent Counsel Kenneth Starr should be investigated and removed from his position because of a conflict of interest involving Richard Mellon Scaife. But, for procedural reasons, it appears that the ethics complaint against Starr is now dead in the water; this is because four of the eight judges on the Little Rock Federal bench recused themselves, because of their friendship with or ties to Bill Clinton.

Mellon Scaife is the Pennsylvania multi-millionaire who finances and publishes some of the most virulent anti-Clinton propaganda in the country. Scaife has a long history of serving the Anglo-American financiers' intelligence network as a manipulator of the news media (see *EIR* March 21, April 4, and April 11, 1997).

One of the four Federal judges in Little Rock who did not recuse himself, Judge Thomas Eisele (a Republican), wrote in a now-unsealed 20-page memorandum, that he believed the court should appoint a counsel to investigate Starr's apparent conflict of interest. Judge Bill Wilson, who wrote the recusal Opinion, incorporated Judge Eisele's memorandum in his own 27-page Opinion, which was released on Aug. 1. Following are excerpts from Judge Wilson's memorandum:

**In the United States District Court
for the Eastern District of Arkansas
Western Division**

In Re: Independent Counsel Kenneth W. Starr

Memorandum Opinion

Pending before the eight District Judges of the Eastern District of Arkansas is a second letter-complaint (Mandanici II) by Connecticut lawyer Francis T. Mandanici, alleging various conflicts of interest on the part of Mr. Kenneth W. Starr in his role as Independent Counsel in what is widely known as the Whitewater investigation.

Judge Elsijane T. Roy, Judge Henry Woods, Judge James M. Moody, and I have determined that we should recuse, for the reasons set forth below.

[T]hose of us who are recusing believe that the parties involved, the bench and the bar, and the public are entitled to know why we are recusing, because of the importance of the matter before us, and because our recusal, may, in effect, amount to a dismissal of the current complaint against the Independent Counsel.

[From Judge Eisele's memorandum]

. . . My intention is that the Court will treat Mr. Starr no differently than it would treat a United States Attorney or Assistant United States Attorney in a similar situation. If a United States Attorney were investigating possible criminal antitrust violations involving three milk producers and a fourth milk producer, a competitor of the three companies under investigation (which, by assumption, would benefit if indictments were returned), agreed to employ the United States Attorney in the future as its in-house counsel at a handsome stipulated figure after the United States Attorney completes her term or completes the antitrust investigation, then that arrangement would, I submit, clearly create both an actual and an apparent conflict of interests. Would not this conflict . . . require the United States Attorney's complete disqualification from the antitrust investigation? . . .

Although Mr. Mandanici raises a number of conflict-of-interests issues in his complaint, the Court has been primarily concerned with the conflicts revolving around Mr. Starr's relationship with Pepperdine University and Mr. Scaife. . . .

In this case, it is clear that the appearance of impropriety, regardless of the reality of any conflict, could—if it has not already—invade the public perception. That conclusion is obvious from the media accounts noted by Mr. Mandanici. . . .

. . . [I]t appears that, in 1991 and 1993, Mr. Starr spent his summer teaching at Pepperdine University in Malibu, California. Brad Cheves, Pepperdine's assistant dean, stated that Mr. Starr was intimately involved in the project to establish a school of public policy at Pepperdine. . . . According to Mr. Cheves, the Scaife Foundation was one of three foundations that helped underwrite the nine million dollars raised to start Pepperdine's school of public policy. The Scaife Foundation made at least one contribution of \$250,000 in 1993 to establish a public-policy chair at Pepperdine. David Davenport, Pepperdine's president, stated in February of 1997 that the Scaife Foundation had given 1.1 million dollars toward the 2.75 million dollars in start-up costs for the school of public policy.

The chairman of the Scaife Foundation is Richard Mellon Scaife, a western Pennsylvania newspaper publisher who, according to various media reports, has used his fortune to press a media campaign discrediting President Clinton and suggesting that Vincent Foster, Jr. may have been murdered. Mr. Scaife serves on Pepperdine's board of trustees. . . .

In the Spring of 1997, Mr. Starr announced that he would

leave the Independent Counsel's office in August of this year to become dean of the law school and the school of public policy at Pepperdine. . . . Mr. Starr then abandoned his plan to assume his duties at Pepperdine as scheduled. President Davenport indicated that Pepperdine would give Mr. Starr "an open-ended time frame." These circumstances are apparently the basis for the words of *Washington Diary* columnist Margaret Carlson: "Starr is now beholden to Pepperdine to hold open a job, for which it is partly beholden to benefactor Scaife." Thus is the alleged conflict brought to the Court's attention by Mr. Mandanici. . . .

In the situation before the Court, Mr. Scaife, said to be a bitter opponent of President and Mrs. Clinton, especially with respect to Whitewater-related issues, has apparently helped to arrange and make possible the very career opportunities that Mr. Starr wants to pursue as soon as he completes his work as Independent Counsel. It appears that Mr. Starr may be involved in a third-party conflict of interest—that is, "the independent counsel . . . has an obligation to a non-client third party that could compromise the independent counsel's neutrality in a matter under investigation." . . .

Even if not true in fact, there is the inevitable appearance that Mr. Starr may consciously or subconsciously tailor his prosecutorial decisions to please his benefactor. . . . (End of quote by Judge Eisele.)

* * *

Judge Moody recused immediately from the consideration of Mandanici II. . . . Judges Roy, Woods, and I have decided to recuse. We are friends of the Clintons, and they are the targets of the Independent Counsel. . . .

. . . I note parenthetically, too, that the district judges of the Eastern District who were foes of the Clintons during their Arkansas days are not recusing. Since recusal is up to each individual judge I will not presume to second-guess their decision; they apparently see a distinction in our respective situations.

This means, of course, that there is no majority of the judges of the Eastern District of Arkansas . . . to refer the Mandanici II complaint to counsel for investigation. . . .

Those of us who are recusing do not do so lightly. We do this realizing that this probably has the effect of killing the Mandanici II complaint without it having been considered on the merits. In fact, it is hard to escape the conclusion that our recusal may well confer de facto immunity on the Independent Counsel, with respect to ethical violation complaints.

In fine, I am filing this opinion because I think it is important for the complainant, the party complained against, the bench and bar, and the public to know that the issues raised by Mr. Mandanici have been extensively researched and debated by the judges of the Eastern District. Further it should be known that Judge Eisele has performed a separate critical analysis of these issues and he reaches conclusions that speak for themselves.

Call for Federal investigation of Texas prison beatings

by Marianna Wertz

The release on Aug. 12 of a videotape of prisoners being beaten by prison guards at the Brazoria County Detention Center in Texas, has led to a growing political uproar, from the state of Missouri to Washington, D.C. The section of the Detention Center where the beatings occurred is leased to Capital Correctional Resource, Inc. (CCRI), a private prison company.

The videotape shows prisoners lying on the floor, being beaten with batons, prodded with stun guns, stepped on, kicked in the groin, and bitten by police dogs. The prison abuse was recorded during a disturbance 11 months ago, captured on video by a sheriff's officer for future use as a training video.

Upon seeing the video, Missouri Corrections Director Dora Schriro consulted with Missouri Gov. Mel Carnahan, and cancelled Missouri's contract with Texas. Four hundred and fifteen inmates were immediately put on buses to be brought back to Missouri from Brazoria County. Missouri political figures say that the state will also bring back the other 655 inmates still incarcerated in four other Texas jails.

Missouri files suit

On Aug. 26, Missouri sued officials in Brazoria County, charging them with a cover-up. "County officials are continuing to perpetrate a cover-up, and it must be stopped," Missouri Attorney General Jay Nixon said after filing the lawsuit in county circuit court in Jefferson City, Missouri. "They have refused to turn over information, including inmate requests for medical attention, officer reports, and medical records, even though they are required to do so under the contract with the state of Missouri. We are asking the court to order them to turn this information over immediately to aid in the investigation."

Charles Quincy Troupe, a state representative from St. Louis, Missouri, has been investigating the brutality for nearly two years, and has repeatedly demanded an investigation. In an Aug. 27 interview with Marianna Wertz, he called for stronger Federal oversight of private prisons, to put a stop to these outrageous practices.