

Answers to House Judiciary Committee Ranking Member Lamar Smith from
Karl C. Rove Regarding Allegations of Selective Prosecution in the Case of Former Alabama
Governor Donald E. Siegelman
July 22, 2008

1. Before former Alabama Governor Donald E. Siegelman's initial indictment in May 2005, did you ever communicate with any Department of Justice officials, State of Alabama officials, or any individual other than Dana Jill Simpson, Esq., regarding Governor Siegelman's investigation or potential prosecution? If so, please state separately for each communication the date, time, location, and means of the communication, the official or individual with whom you communicated, and the content of the communication.

I have never communicated, either directly or indirectly, with Justice Department or Alabama officials about the investigation, indictment, potential prosecution, prosecution, conviction, or sentencing of Governor Siegelman, or about any other matter related to his case, nor have I asked any other individual to communicate about these matters on my behalf. I have never attempted, either directly or indirectly, to influence these matters.

2. Before Governor Siegelman's initial indictment in May 2005, did you ever communicate with Dana Jill Simpson, Esq., regarding Governor Siegelman or Governor Siegelman's investigation or potential prosecution? If so, please state separately for each communication the date, time, location, means, and content of the communication.

I have never communicated, either directly or indirectly, with Simpson about the investigation, indictment, potential prosecution, prosecution, conviction, or sentencing of Governor Siegelman, about any other matter related to his case, or about any other matter whatsoever.

3. After Governor Siegelman was initially indicted in May 2005, but before the first superseding indictment against him in October 2005, did you ever communicate with any Department of Justice officials, State of Alabama officials, or any individual other than Dana Jill Simpson, Esq., regarding Governor Siegelman's investigation or prosecution? If so, please state separately for each communication the date, time, location, and means of the communication, the official or individual with whom you communicated, and the content of the communication.

I have never communicated, either directly or indirectly, with Justice Department or Alabama officials about the investigation, indictment, potential prosecution, prosecution, conviction, or sentencing of Governor Siegelman, or about any other matter related to his case, nor have I asked any other individual to communicate about these matters on my behalf. I have never attempted, either directly or indirectly, to influence these matters.

4. After Governor Siegelman was initially indicted in May 2005, but before the first superseding indictment against him in October 2005, did you ever communicate with Dana Jill Simpson, Esq., regarding Governor Siegelman or Governor Siegelman's investigation or prosecution? If so, please state separately for each communication the date, time, location, means, and content of the communication.

I have never communicated, either directly or indirectly, with Simpson about the investigation, indictment, potential prosecution, prosecution, conviction, or sentencing of Governor Siegelman, about any other matter related to his case, or about any other matter whatsoever.

5. After Governor Siegelman's first superseding indictment in October 2005, but before his subsequent conviction, did you ever communicate with any Department of Justice officials, State of Alabama officials, or any individual other than Dana Jill Simpson, Esq., regarding Governor Siegelman's investigation and prosecution? If so, please state separately for each communication the date, time, location, and means of the communication, the official with whom you communicated, and the content of the communication.

I have never communicated, either directly or indirectly, with Justice Department or Alabama officials about the investigation, indictment, potential prosecution, prosecution, conviction, or sentencing of Governor Siegelman, or about any other matter related to his case, nor have I asked any other individual to communicate about these matters on my behalf. I have never attempted, either directly or indirectly, to influence these matters.

6. After Governor Siegelman's first superseding indictment in October 2005, but before his subsequent conviction, did you ever communicate with Dana Jill Simpson, Esq., regarding Governor Siegelman or Governor Siegelman's investigation or prosecution? If so, please state separately for each communication the date, time, location, means, and content of the communication.

I have never communicated, either directly or indirectly, with Simpson about the investigation, indictment, potential prosecution, prosecution, conviction, or sentencing of Governor Siegelman, about any other matter related to his case, or about any other matter whatsoever.

7. Since Governor Siegelman's conviction, have you ever communicated with any Department of Justice officials, State of Alabama officials, or any individual other than Dana Jill Simpson, Esq., regarding Governor Siegelman's conviction, sentencing or appeal? If so, please state separately for each communication the date, time, location, and means of the communication, the official with whom you communicated, and the content of the communication.

I have never communicated, either directly or indirectly, with Justice Department or Alabama officials about the investigation, indictment, potential prosecution, prosecution, conviction, or sentencing of Governor Siegelman, or about any other matter related to his case, nor have I asked any other individual to communicate about these matters on my behalf. I have never attempted, either directly or indirectly, to influence these matters.

8. Since Governor Siegelman's conviction, have you ever communicated with Dana Jill Simpson, Esq., regarding Governor Siegelman or Governor Siegelman's conviction, sentencing or appeal? If so, please state separately for each communication the date, time, location, means, and content of the communication.

I have never communicated, either directly or indirectly, with Simpson about the investigation, indictment, potential prosecution, prosecution, conviction, or sentencing of Governor Siegelman, about any other matter related to his case, or about any other matter whatsoever.

9. Did you ever communicate with Dana Jill Simpson, Esq., regarding any political campaign before, during or after 2001? If so, please state separately for each communication the date, time, location, means, and content of the communication.

I have never communicated, either directly or indirectly, with Simpson about any political campaigns before, during, or after 2001, or about any other matter whatsoever.

10. Do you know Dana Jill Simpson, Esq., personally, and have you ever met or communicated with her in any other manner or context? If so, please describe the nature and context of the meeting or communication.

I do not and have never known Simpson personally. It is possible that Simpson may have met me at a public function, but I do not know her, I have never worked with her, and I have never communicated with her, either directly or indirectly.

11. In a September 14, 2007, interview with staff of the House Committee on the Judiciary, Ms. Simpson identified you as the “Karl” referred to in a hand-written note atop an email discussing a 2001 FEMA contract. Interview of Dana Jill Simpson, September 14, 2007, at 36. The e-mail refers to a proposed letter dated May 23, 2002, to FEMA Director Joe Allbaugh. Simpson Exhibit 550. This letter appears to refer to an appeal of a FEMA decision to deny payment for work performed pursuant to the contract. The hand-written note reads: “To: Jill . . . I e-mailed this to [redacted], Karl, and Stewart today . . . Rob.” Id. Ms. Simpson identifies the hand-writing as that of Mr. Rob Riley and identifies “Stewart” as “a lobbyist that works for the Federalist Group.” Interview at 35-36. Do you have any reason to believe that you are the “Karl” referred to in this exhibit?

I am not the “Karl” referenced on the email. Karl Dix, a partner at Smith, Currie & Hancock in Atlanta, Georgia, has publicly stated that (1) he worked with Rob Riley and Simpson on a Federal Emergency Management Agency cleanup contract (the subject of the email); and (2) “Rob did give me an e-mail in 2002, and I was the Karl in the email.” See Exhibit A, “Riley’s son willing to rebut testimony,” *Tuscaloosa News*, October 11, 2007.

12. In a February 24, 2008, interview with 60 Minutes, Ms. Simpson specifically claimed that during a meeting with you in 2001, you asked her to try to catch then-Alabama Governor Donald E. Siegelman cheating on his wife. Specifically, Ms. Simpson claimed that you asked Ms. Simpson to take pictures of Governor Siegelman in a compromising sexual position with one of his aides. Did you ever ask Ms. Simpson to take pictures of Governor Siegelman in a compromising sexual position with one of his aides?

I have never communicated, either directly or indirectly, with Simpson about taking photographs of any individuals whatsoever, including Governor Siegelman, and I have never asked her to undertake any task to discredit Governor Siegelman. Nor have I asked any other individual, either directly or indirectly, to take photographs of Governor Siegelman.

13. Are you aware of statements by any officials or individuals regarding whether or not Ms. Simpson’s allegations about the investigation and prosecution of Governor Siegelman, your alleged role in it, or your alleged communications with Ms. Simpson are credible? If so, please identify the official or individual who made the statement, the date, place and

manner of the statement's publication, and the statement's content. Please also provide a citation to or copy of each such statement, if you have one.

No one has corroborated Simpson's allegations regarding my alleged "involvement" in the Siegelman case. Indeed, many individuals have rebutted her charges. With respect to the telephone call Simpson alleges took place on November, 18, 2002, the following individuals have denied that such a call occurred:

- In an October 2007 Affidavit, Terry Butts asserted that "among other general matters that I recall on November 18, 2002, co-counsel Matt Lembke, Rob Riley, and I were together in Rob's office on the mentioned date. As I recall, none of us were ever outside each other's presence on that day for any length of time, so if a conference call with Ms. Simpson occurred as she alleges, I am confident we would remember it, particularly, in light of the comments she alleges. Again, I neither recall any such call, nor do I believe any such call/conversation as alleged ever took place. Further, Bill Canary was not present with us on November 18, 2002, nor do I ever recall any conference call with him. In fact, to my knowledge and recall, I have never had a phone call with Mr. Canary." See Exhibit B, Butts Affidavit.
- In an October 2007 Affidavit, Rob Riley stated that he has "no memory" of being on a phone call with Jill Simpson on November 18, 2002. He further stated that "I do not believe a phone call occurred that involved Ms. Simpson, former Alabama Supreme Court Justice Terry Butts . . . Bill Canary . . . , and myself on November 18, 2002 in which Mr. Butts allegedly stated that he would confront former Alabama Governor Don Siegelman . . . with photographs of a political prank, . . . and would attempt to convince Mr. Siegelman to concede the election based on said photographs, or that Mr. Canary allegedly made statements to the effect that 'his girls' would take care of Mr. Siegelman or that 'Karl' had spoken to, or gone over to, the Department of Justice and that the Department of Justice was pursuing, or would pursue, a case against Siegelman." See Exhibit C, Riley Affidavit.
- In an October 2007 Affidavit, Matthew Lembke asserted, "I do not recall the phone call that Ms. Simpson claims took place between her, Justice Butts, Bill Canary, and Rob Riley at 10:52 am on November 18, 2002, for 11 minutes. I did not leave the presence of Justice Butts and Rob Riley for more than a few minutes at any point from the time I arrived at Rob's office until we left for the victory speech at the end of the day . . . If there had been a conference call conducted by speaker phone in Rob's office as described by Ms. Simpson, I believe that I would have heard it. I do not recall any such call taking place while I was there. In addition, Bill Canary was not at Rob's office on November 18, 2002, nor do I recall that he participated in any conference call involving me at any point during the post-election controversy. . . . During the post-election controversy, there were several lawyers around the state who served as co-counsel for the Riley campaign on various post-election legal matters. Jill Simpson was not one of those lawyers. In fact, the first time I ever recall hearing Ms. Simpson's name was when I read an account of her affidavit on the *New York Times* website." See Exhibit D, Lembke Affidavit.

- In a July 2007 interview with the Birmingham News, Simpson herself backed away from her original charges about the phone call, explaining, “[y]ou can read it both ways . . . I did it as best I could to factually write it down as exactly as to what was said. And there’s two interpretations to it, there’s no doubt about that.” See Exhibit E, “Affidavit about Siegelman case open to debate,” *Birmingham News*, July 8, 2007.

With respect to the Siegelman charges more generally:

- Louis V. Franklin, Sr., Acting U.S. Attorney in the Scrushy/Siegelman prosecutions, has stated as follows: “[T]he entire story is misleading because Karl Rove had no role whatsoever in bringing about the investigation or prosecution of former Governor Don Siegelman. It is intellectually dishonest to even suggest that Mr. Rove influenced or had any input into the decision to investigate or prosecute Don Siegelman. That decision was made by me, Louis V. Franklin Sr., as Acting U.S. Attorney in the case, in conjunction with the Department of Justice’s Public Integrity Section and the Alabama Attorney General’s Office . . . Our decision was based solely upon evidence in the case, evidence that unequivocally established that former Governor Siegelman committed bribery, conspiracy, mail fraud, obstruction of justice, and other serious federal crimes.

. . .

I have never spoken with or even met Karl Rove . . . My decision [to prosecute] was based solely on the evidence uncovered by federal and state agents, as well as the special grand jury, establishing that Mr. Siegelman broke the law . . . Contrary to how the prosecution is portrayed in Adam Zagorin’s Time article, rather than the U.S.

Department of Justice pushing the MDAL to move forward with the prosecution of former Governor Siegelman, the push has always come from the Middle District’s U.S. Attorney’s office and has been spearheaded by me as the Acting U.S. Attorney in the case. My sole motivation for pushing the prosecution was a firmly held belief, supported by overwhelming evidence and the law, that former Governor Siegelman had broken the law . . . Ultimately, a jury of former Governor Siegelman’s peers, consisting of men and women, African-American and Caucasian, agreed and convicted the former Governor[.]

. . .

I am a career Assistant U.S. Attorney in the Middle District of Alabama. I have served under both Democratic and Republican appointees. I take my role as a government prosecutor and my ethical obligations as a lawyer very seriously. I value my integrity above all else. I would never pursue a prosecution for political reasons, nor would I bring any prosecution not warranted by the evidence or the law. That simply did not happen here, no matter what anyone prints.” See Exhibit F, Franklin Statement.

- Principal Deputy Assistant Attorney General Brian Benczkowski has stated that “[a]t the time Ms. Simpson alleges the purported statements were made, Mr. Siegelman was already under federal investigation. The existence of the investigation had been widely reported in newspapers and television reports, some released more than ten months before the alleged conversation. . . . Indeed, even Mr. Siegelman states that Ms. Simpson’s affidavit is false as it relates to him. Moreover, according to Ms. Simpson, she met with Mr. Siegelman and his co-defendant Richard Scrushy for several months before signing the statement at their urging.” See Exhibit G, Benczkowski Letter.

14. Please share with us any additional information which you would like to provide concerning Ms. Simpson's and Governor Siegelman's allegations against you or any other questions that have arisen concerning your alleged involvement with Governor Siegelman's investigation and prosecution.

Thank you for the opportunity to share additional information. Several issues are worth the Committee's consideration:

(1) Despite his repeated public statements that I played a role in his prosecution, and despite being called upon to substantiate that charge, Governor Siegelman has not offered a single piece of evidence that I played any role whatsoever in his case.

- Before giving credence to Siegelman's baseless allegations of impropriety, the Committee should require Siegelman to substantiate his allegations about my "involvement" in his prosecution – something he has failed to do in either media interviews *or* court filings.
- While Siegelman seems to rely on Simpson's claims to make his argument to the media, he has directly denied her other charges about his reasons for conceding the 2002 Alabama gubernatorial race. In an interview prior to entering prison, he publicly stated that he *actually* dropped out because he did not want a repeat of Al Gore's challenge of the 2000 presidential vote in Florida, not because he was threatened by Riley operatives or promised a deal regarding the Justice Department investigation. See Exhibit H, "Siegelman aides contradict main part of Simpson affidavit," The Associated Press State & Local Wire, July 19, 2007.

(2) Simpson is simply not a credible source, and the Committee should exercise due diligence before relying upon her accusations.

- The *Weekly Standard* has said this: "As a lawyer, [Simpson] has scratched out an uncertain living in DeKalb County, Alabama. Fellow DeKalb County lawyers describe her as 'a very strange person' who 'lives in her own world.' The daughter of rabid Democrats, she has rarely if ever been known to participate in politics as even a low-level volunteer . . . Those who know her in DeKalb County scoff at the idea that she is a Republican at all." See Exhibit I, "A Conspiracy So Lunatic . . . Only 60 Minutes could fall for it," The *Weekly Standard*, May 26, 2008.
- Simpson has not provided any information about campaigns on which she may have worked with me. Not a single Republican county chairman, activist, or candidate has stepped forward to verify that she is indeed – as she now styles herself – a known "Republican operative."
- Simpson has been unable to produce *any* Alabama campaign finance filings identifying her as a paid staffer receiving a salary or a consulting fee. Such a disclosure would have been required if she were, in fact, a paid campaign operative to an Alabama campaign. In addition, Simpson has not provided *any* other information supporting her claim to have worked with me in Alabama campaigns over the years, or that I asked her to undertake any projects or assignments on my behalf in Alabama or elsewhere.

- Said the Alabama Republican Party Chairman in a press release: “Our staff has done an exhaustive search of Alabama Republican Party records going back several years, and we can find not one instance of Dana Jill Simpson volunteering or working on behalf of the Alabama Republican Party – as stated by 60 Minutes reporter Scott Pelley. Nor can we find anyone within the Republican Party leadership in Alabama who has ever so much as heard of Dana Jill Simpson until she made her first wave of accusations last summer in an affidavit originally released only to the New York Times.” See Exhibit J, “Statement by Alabama Republican Party Chairman Mike Hubbard,” February 24, 2008.

(3) Simpson’s story has dramatically evolved over the last year, raising grave doubts about her veracity.

May 2007 Affidavit

- In her May 2007 Affidavit, Simpson asserted (1) that Rob Riley called her “multiple” times on November 18, 2002, and that during one of the calls, she, Rob Riley, Bill Canary and Terry Butts discussed that Terry Butts would confront Siegelman regarding a scheme involving the KKK and “get” him to concede (yet, multiple individuals have vehemently denied that such a call happened); (2) that Bill Canary stated that “his girls” would take care of Siegelman (never mind that the investigation was public knowledge at this point); and (3) that Bill Canary stated that “Karl” had spoken with the Department of Justice and the Department was already pursuing Siegelman (an assertion denied by the Acting U.S. Attorney who prosecuted Siegelman, among others). At no point did Simpson mention working with me to take photographs of Governor Siegelman in a compromising position, a scintillating “fact” which would seem to be noteworthy.

July 2007 Birmingham News Interview

- In a July 2007 interview with the Birmingham News, Simpson herself backed away from her original charges about the phone call, explaining, “[y]ou can read it both ways . . . I did it as best I could to factually write it down as exactly as to what was said. And there’s two interpretations to it, there’s no doubt about that.” See Exhibit E, “Affidavit about Siegelman case open to debate,” *Birmingham News*, July 8, 2007.

September 2007 Committee Interview

- In her interview, Simpson again backed away from the Affidavit, asserting that “I mean, as I said, I couldn’t put everything down. I put the best I could, but I didn’t write every single word that occurred in that.” Simpson Interview at 26.
- In her interview, Simpson asserted that prior to drafting the Affidavit, she had been told that I had spoken about Governor Siegelman’s case to the “head guy” at the Public Integrity Section at the Department of Justice, and that the “head guy” had “agreed to allocate whatever resources, so evidently the guy had the power to allocate resources, you know.” She apparently possessed this alleged “knowledge” prior to her May 2007 Affidavit and her July 2007 interview, but inexplicably did not reference it on either occasion. Simpson Interview at 50-53.

February 2008 *60 Minutes* Interview

- In her February 2008 interview with 60 Minutes, Simpson unveiled the bizarre accusation that I personally asked her to take pictures of Siegelman in “a compromising, sexual position” with one of his aides. This story seems to be an outgrowth of the tale she told the Judiciary Committee, wherein it was Rob Riley who had asked her to “obtain some pictures” of Don Siegelman (although in the older version of the story, Riley had allegedly asked only for pictures of campaign events). She presumably possessed this alleged “knowledge” prior to her May 2007 Affidavit, her July 2007 newspaper interview, and her September 2007 Committee interview, but inexplicably did not reference it on any of these occasions. Simpson Interview at 12; “Did Ex-Alabama Governor Get a Raw Deal?” *60 Minutes*, February 24, 2008.
- Despite this shocking “fact” about her spy missions, neither in the original Affidavit, nor in 143 pages of interview transcript, did she ever claim to have met me, spoken to me, or carried out any work on my behalf, even though the apparent point of her Affidavit and interview was to accuse me of wrongdoing in connection with Governor Siegelman.

February 2008 MSNBC Interview

- When questioned about her claims regarding requests to photograph Governor Siegelman, Simpson made disturbing allegations about the Judiciary Committee majority, which either further calls into question Simpson’s veracity or suggests that the majority attempted to conceal the absurdity of her allegations:

ABRAMS: Why have you never mentioned before the, uh, the allegation about Rove and the pictures?

SIMPSON: Oh, I mentioned it to people. They just did not, um, use it. Because nobody wanted to go into the fact that I had been following Don Siegelman trying to get pictures of him cheating on his wife.

ABRAMS: But . . . some of your critics have said, “Oh, you know, in front of Congress, et cetera, she had a lot of opportunities. Why hasn’t she mentioned this before?”

SIMPSON: Well, let me explain something to you. I talked to congressional investigators, Dan. And when I talked to those congressional investigators I told them that I had followed Don Siegelman and tried to get pictures of him cheating on his wife. However, they suggested to me that that was not relevant because there was nothing illegal about that and they’d just prefer that it not come up at the hearing that day.

Verdict with Dan Abrams, February 25, 2008.

(4) Simpson has not offered any proof whatsoever of her allegations, and the Committee should require that such proof be produced before giving credence to her accusations.

- *Not a single individual* has corroborated Simpson’s story about my “involvement” in the Siegelman investigation, indictment, and conviction. Nor has any individual corroborated her other odd stories about the KKK, the Siegelman/Riley race, and her so-called involvement with various Alabama campaigns in which I was involved. Indeed, multiple trustworthy individuals and public officials have publicly and forcefully denied her allegations – and these individuals and public officials are the mere tip of the iceberg.
- Simpson has provided no evidence that she indeed was asked to take photographs of Governor Siegelman, or even that she attempted to do so in some manner. She has produced no photographs, no meeting or telephone records showing that we communicated, no travel receipts that would prove she was following Governor Siegelman, no gubernatorial travel schedules or itineraries, and no proof whatsoever that I hired her to undertake a surreptitious research effort.
- Indeed, it is highly unlikely that her presence shadowing Governor Siegelman over a lengthy period of time would somehow escape detection by the Governor’s security detail.

(5) Simpson’s motives in attacking me are murky at best.

- At her interview before this Committee, Simpson was accompanied by Joseph Sandler, the current general counsel to the Democratic National Committee. Simpson Interview at 1-2.
- Simpson has admitted that she assisted “an attorney for [Richard] Scrushy,” Art Leach, in attempting to secure a new trial for Scrushy. She also admitted that she has corresponded with John Aaron, an Alabama attorney and “political researcher” to whom she was allegedly introduced by Siegelman, for purposes of “researching” the judge overseeing Siegelman’s case. Simpson Interview at 67-80.
- During her interview before the Committee, Simpson admitted that she asked Aaron “to help me write the affidavit,” and that Aaron created the first draft. She was “not certain” whether for the final draft, she “start[ed] from scratch” or “start[ed] with Aaron’s and change[d] it around[.]” Simpson Interview at 79-81.
- During her interview, Simpson also admitted that her intention in drafting the Affidavit was that it would be given to the Scrushy and Siegelman legal teams via Aaron and her friend Mark Bollinger, who previously served as an aide to a former Democratic Alabama Attorney General. “I had decided to do an affidavit and had done it because [Scrushy’s office] had called several times,” she said. Simpson Interview at 79-84, 136-138.