

# SWEET JUDY BLEW LIES

By now you've all heard that Judy discovered some forgotten notes from June 2003. It seems she and Fitzgerald are going to have a lot to talk about the next time they get together.

It's looking increasingly likely that the outtamyarse speculations I made in July and expounded on in my explain-it-all Plame narrative are at least in the close proximity of the money. So I'd like to take this moment to expand on the thoughts I had in July about what I think happened and what I think it means.

I'll start with a fictional reenactment of what might have happened to get us to this spot. All of this assumes that my outtamyarse speculation that Judy was going to write an article identifying Wilson, but that David Shipley found out, and that the NYT decided instead to have Wilson tell his own story rather than let Libby Bolton Cheney Judy do it for him. So here's my little fictional reenactment:

Fitz knew all along that somebody had tried to write a story identifying Joe Wilson in late June 2003. Where did he find that out? Wilson probably told him about it. Or, Fitz, like me, read Wilson's book. In any case, well before Judy's testimony, Fitz probably asked Wilson who he got the tip from in June that someone was writing a story on him. Wilson said, "Kristof" or "Shipley." And Fitz, being the thorough guy he is just made a quick call to get some details. Like who was going to write that story. And how the NYT convinced that person not to write it.

Then, in Judy's interview last Thursday (which was sworn testimony, so Judy couldn't change her mind overnight, so Fitz would know what he was getting before he let her go, and just in case

Abramoff's friends got to her overnight), he asked some open-ended questions to which she should have responded with details about her earlier attempt to write a Wilson story. But she didn't. She probably, at that time, mentioned one detail that made Fitz take notice, but did not change the basic fact that she had just committed perjury.

Fitz called Wilson just to clarify the little detail. Which Wilson did easily, apparently over the phone. Fitz did it just so he made sure he had that detail straightened out before Judy's grand jury testimony (so he was sure precisely what the outlines of her perjury were going to be).

Or, as the *LA Times* describes:

However, there was an additional sign that Fitzgerald continued to investigate aggressively. He phoned Wilson on Sept. 29, the same day Miller, the New York Times reporter jailed for refusing to divulge her confidential source, was released from jail after agreeing to testify in the case.

The next day, just as Fitz expected, Judy committed perjury by burying details of her earlier reporting. Fitz likely asked her a question specifically tailored around Wilson's answer the previous night. Like, "Did you have any conversations with Nicholas Kristof that might have told you about Joe Wilson?" "Nicholas Kristof," Judy said, "Isn't he that screaming liberal who pisses off Safire so much?"

Just long enough after Judy finished, after she had gone home, made a martini,

gloated with Sulzberger about how many concessions she had gotten, hugged her dog, Fitz contacted Judy and said, "Um, there's one little detail you seem to have forgotten. Well, let's make that one gigantic detail. Oh, and is Art there? Can I talk to him? Because that little—I mean gigantic—detail affects the testimony he gave us as well. What's that? You'd like to add some to your testimony. Well, do you have anything concrete to give me? Such as your notes from June. Yeah, that's right, your notes detailing ALL of your sources. Yeah, I understand we agreed you could limit your testimony to your conversations with Libby about Plame. But you promised you would tell the truth, remember? And ... well ... you didn't do that."

"Hey!!!" Judy says. "Wouldn't you know it, I just remembered about some notes I've got shoved into an old suitcase upstairs!!"

So Judy is now going to share notes from the reporting she did on Wilson in June 2003. I suspect those notes already reflect information gleaned from the INR memo. And I suspect Judy will be forced to identify a tidy network of sources on Wilson, including Libby and Bolton, but maybe Hadley and others.

What does this mean for our hopes that Karl will soon lead a frogmarch parade in the near future?

Well, as Reuters says, this makes it a lot more likely Fitz will be able to sew up his neat little conspiracy case.

One source involved in the investigation said Miller's notes could help Fitzgerald show a long-running and orchestrated campaign to discredit Wilson, which could help form the basis for a conspiracy charge.

Poor little Judy was so proud that she had gotten concessions from Fitzgerald. Concessions from the guy who was about to present her with the evidence she had committed perjury. Poor little Judy, who will now have to expose a whole network of sources in a pathetic attempt to get in Fitz' good graces. I think the book deal and the martyrdom will have to wait for a while.

But my favorite indication of what this means is the chorus of silence depicted in this Observer article.

Robert Bennett, a lawyer for Miller, declined to comment. Joseph Tate, the lawyer representing Libby, did not return calls seeking comment. *Times* lawyer George Freeman would not comment.

The presence of the undisclosed set of notes comes as the *Times* is seeking to quell internal and external criticism over a lack of transparency in the Miller case. In today's *Times*, executive editor Bill Keller said Miller's potential return trip to meet with Fitzgerald could further delay the *Times'* plans to publish an account of the Miller saga. Deputy managing editor Jonathan Landman, who has been tapped to edit the report, declined to discuss the state of the paper's Miller reporting.

"I'm not going to talk about it," he said.

Slightly tempered for the family audience (don't know why I believe comments are appropriate for cursing but not posts...?), here's what I think is going on:

*Robert Bennett, a lawyer for Miller, declined to comment.*

Bennett probably convinced his client that she was going to avoid jail time with her testimony

last week. Now he realizes she's got perjury hanging over her head. "Declined to comment."

*Joseph Tate, the lawyer representing Libby, did not return calls seeking comment.*

Tate probably has already realized Libby wasn't getting off scot-free. But he was probably figuring on a little conspiracy. Just Libby and Rove and, well, not the whole rest of the Administration. Besides, he's been worried all week that Libby's little love letter to Judy would get him an obstruction charge tacked on. But this—this opens a whole can of worms. Worms he's going to have to think about. "Did not return calls seeking comment."

*Times lawyer George Freeman would not comment.*

George is wondering whether Art's big steak dinner he bought Judy last Thursday was really worth the investment. Because, well, the NYT's hopes to avoid losing all credibility—or worse? They seem to be disappearing rapidly."Would not comment."

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And meanwhile, every day the NYT goes without telling some version of the story they take a further hit to their claim to have been protecting the principles of journalism. How can you claim to be protecting journalism if you're actively and demonstrably trying to bury a story? How can you claim to have been protecting the right to expose the full truth when you're cowering from that truth now? Unfortunately, the NYT can't tell the story to the public until they figure out precisely what their story to Fitz is going to be, finally. And it would help if Saint Judy would finally figure out her

story. But that may take a bit of time yet. "Not going to talk about it."

And this chorus of silence? I suspect it's being echoed by many Bush Administration lawyers right now.

About the only one with anything left to say is Rove's lawyer Luskin. Who, at this point, seems to little left to lose.

Update: Laura Rozen asks a very good question.

Who's leaking Miller's discovery of more notes? Probably not Miller's attorneys. Libby's? That doesn't seem right either. Fitzgerald's office?

I've got two theories. The first (one I don't like that much) is that the NYT, whose lawyers should henceforth be distinguished from Judy's lawyers, leaked this because they're finally realizing they need to come clean.

My more interesting theory? I've suspected for a while that Bennett may be defending "Judy" in the sense that "Judy" is really a little girl with her finger in the hole of the dike. Now, if Bennett were representing all of the nice Neocons standing behind that girl with her finger in the dike, he'd do whatever he could to telegraph to them that the dike had just broken.

In short, the easiest, obstruction of justice-free way he could tell Libby and Rove and Hadley and Cheney and Bolton and Bush and so on and so on that they should get to high ground is to leak the news that Judy had submitted a second set of notes.

Update 2: Yeah, I'm betting it was Bennett. Check out the way Reuters describes the note release:

A New York Times reporter has given investigators notes from a conversation she had with a top aide to Vice President Dick Cheney weeks earlier than was previously known, suggesting White

House involvement started well before the outing of a CIA operative, legal sources said.

Times reporter Judith Miller discovered the notes – about a June 2003 conversation she had with Cheney’s chief of staff, Lewis “Scooter” Libby – after her testimony before the grand jury last week, the sources said on Friday. She turned the notes over to federal prosecutor Patrick Fitzgerald and is expected to meet him again next Tuesday, the sources said.

Miller’s notes could help Fitzgerald establish that Libby had started talking to reporters about CIA operative Valerie Plame and her diplomat husband, Joseph Wilson, weeks before Wilson publicly criticized the administration’s Iraq policy in a Times opinion piece, the sources said. [emphasis mine]

This passage tells the Neocon thugs precisely what is in those notes. This not only tells them to run like hell for higher ground. But it gives them survival advice in case they make it to higher ground.

ReddHedd? When do lawyers get to be charged with obstruction of justice?