

# FOLD THE HOLDER NOMINATION

graphic by twolf

Clearly it is Eric Holder day here at FDL and I didn't want to be left out of the party. Especially since I was one of the ones starting it. Now Looseheadprop has covered a lot of the ground, here, here and here and Dr. Kirk Murphy here and here, but I would like to elaborate and knock back a meme that has been floated by Glenn Greenwald, namely that Holder's involvement in the Chiquita matter is just principled, zealous representation of his client akin to the heroic souls that have taken the mantle of defending Gitmo detainees.

I've seen some attempts to criticize Holder based upon clients he has represented while in private practice, most notably his defense of Chiquita Brands in a criminal case brought by the DOJ arising out of Chiquita's payments and other support to Colombian death squads. Attempts to criticize a lawyer for representing unsavory or even evil clients are inherently illegitimate and

wrong – period. Anybody who believes in core liberties should want even the most culpable parties to have zealous representation before the Government can impose punishments or other sanctions. Lawyers who defend even the worst parties are performing a vital service for our justice system. Holder is no more tainted by his defense of Chiquita than lawyers who defend accused terrorists at Guantanamo are tainted by that.

I admire Glenn Greenwald's writing and respect his work immensely, but I take pretty big issue with this position. The key that Greenwald is putting in the wrong lock is that those ethical standards of guaranteed zealous representation, like the detainees at Gitmo and other defendants are entitled to, apply to formally charged actual criminal defendants.

Chiquita, their executives, offices and board, et al. were not. Instead, what you had here was a dirty as mud corporation that had been illegally and immorally playing both sides a third world country's violent terrorist/factional problem, sometimes clandestinely with the CIA, including drug running and attendant money laundering, but always for the benefit and profit of Chiquita. You then have this complicit company, whose powerful Board member Rod Hills (and his wife, Carla Hills, a powerful former DOJ official and significant voice with the Bush Administration) is a major friend, supporter and donor to the Bushies, conspiring with the Bush DOJ to whitewash and cover up all this muck. And that is what Holder and the DOJ, together, did.

This from Marcy Wheeler gives a good description of the Chiquita situation:

The Sentencing Memorandum the government filed in the Chiquita case reveals something rather interesting. Chiquita was an equal opportunity terrorist

supporter. You see, from 1989 to 1997, Chiquita paid protection money to FARC and ELN, left wing terrorist groups. Then, after FARC and FLN were declared terrorist groups in 1997, Chiquita switched sides, paying protection money to right wing terrorist group AUC instead. Of course, Chiquita got in trouble because, in 2001, after the US declared AUC a terrorist organization, Chiquita kept right on paying their protection money, presumably having no other side to flip to. I guess it's nice not to be bound by ideology in your support of terrorist organizations.

In spite of funding the AUC long after Chiquita became aware they were breaking the law, the government is recommending that Chiquita be able to keep half of its profits from doing business under the protection of a terrorist organization. They're recommending a fine of half their profits, when the maximum fine was twice their profits for the period.

We knew that that was the government's recommendation for a fine. What is new, though, is that the government has decided **not to indict** the well-connected Republican lawyer Roderick Hills for recommending his clients engage in ongoing criminal behavior. Perhaps Michael Chertoff had something to say about that decision. You see, Hills **alleged that Michael Chertoff**, the guy who's in charge of our Homeland Security, okayed Chiquita's ongoing payments to right wing terrorists. The government denies those allegations in its Sentencing Memorandum.

The Department of Justice never authorized defendant Chiquita to continue under any circumstances the Company's payments to the

AUC—not at the meeting on April 24, 2003, nor at any other point. To be sure, when first presented with this issue at the meeting on April 24th, Department of Justice officials acknowledged that the issue of continued payments was complicated. But this acknowledgment did not constitute an approval or authorization for defendant Chiquita to continue to break the law by paying a federally-designated Foreign Terrorist Organization.

But I guess they weren't confident enough in their own side of the story to take that to court.

And so it happens that another well-connected Republican with ties to funding terrorism gets off scot free.

Holder didn't represent a charged criminal with protected rights in relation to an active prosecution, he conspired with an unethical and corrupt Justice Department to cover up and conceal crimes. This is a far cry from the heroic zealous public defender type of representation Glenn Greenwald, and others, are painting for Holder.

No, Holder is a lot closer to a mob consigliere than principled defender of justice. He should be treated as such. And if you want the Department of Justice to get serious about business and financial fraud, which this country desperately needs, we sure need someone diametrically different than Eric Holder.

You got to know when to hold them and when to fold them. Fold Holder.