

JUDGE SULLIVAN: STEVEN BRADBURY NOT QUALIFIED TO WITHHOLD CHENEY'S PLAME MATERIALS

Though we may need new rules about linking to the WaPo after they canned Dan Froomkin, not only is this story not an AP story (what with their expansive claims of fair use), but it has a bunch of more interesting details. So here's the story about Judge Emmet Sullivan, demanding the government allow him to review the Dick Cheney FBI interview materials they're trying to withhold from FOIA before he'll allow them to withhold the materials.

U.S. District Judge Emmet G. Sullivan expressed surprise during a hearing here that the Justice Department, in asserting that Cheney's voluntary statements to U.S. Attorney Patrick J. Fitzgerald were exempt from disclosure, relied on legal claims put forward last October by a Bush administration political appointee, Stephen Bradbury. The department asserted then that the disclosure would make presidents and vice presidents reluctant to cooperate voluntarily with future criminal investigations.

But career civil division lawyer Jeffrey M. Smith, responding to Sullivan's questions, said Bradbury's arguments against the disclosure were supported by the department's current leadership. He told the judge that if Cheney's remarks were published, then a future vice president asked to provide candid information during a criminal probe might refuse to do so out of concern "that it's going to get on 'The Daily

Show' " or somehow be used as a political weapon.

Sullivan said Bradbury, who was the acting head of the Office of Legal Counsel, was not obviously qualified to make such claims and that they were in any event unsubstantiated. Sullivan said the department needed new evidence, if it hoped to prevail, and said the administration should supply him with a copy of Cheney's statements so he could directly assess whether the claims are credible.

No word on whether Sullivan believes Bradbury is unqualified because this is not the purview of OLC, or whether he has just read Bradbury's crappy ass OLC opinions and made the same conclusion the rest of us have: his legal judgment ain't worth much.

Sullivan appears to be predisposed to accept CREW's—and frankly, Fitz's—argument that, since Cheney didn't have to appear before a grand jury, he (and the government) can't now claim his interview materials can't be released because of grand jury secrecy laws.

Also note, there are three items responsive to the CREW subpoena, all in some way pertaining to the FBI interview. That means in addition to the interview report, we'll get notes. Which I'm guessing will be far more interesting to read.

And it's finally looking like we might get to read them.