

REGGIE WALTON UNLEASHES THE ROCKET'S RED GLARE



graphic by mopupduty.com

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Well well well. who couldda knowd?? Acute prosecutorial foul play has ended the big Roger Clemens perjury trial at it's gestation. From ESPN:

The judge presiding over Roger Clemens' perjury trial declared a mistrial over inadmissible evidence shown to jurors.

U.S. District Judge Reggie Walton said Clemens could not be assured a fair trial after prosecutors showed jurors evidence against his orders in the second day of testimony.

He will hear a motion on whether a new trial would be considered double jeopardy.

Whooo boy, Judge Walton must have been a little upset. Why yes, yes, he was:

"I don't see how I un-ring the bell," he said

Walton interrupted the prosecution's playing of a video from Clemens' 2008 testimony before Congress and had the jury removed from the courtroom. Clemens is accused of lying during that testimony when he said he never used performance-enhancing drugs during his 24-season career in the major leagues.

One of the chief pieces of evidence

against Clemens is testimony from his former teammate and close friend, Andy Pettitte, who says Clemens told him in 1999 or 2000 that he used human growth hormone. Clemens has said that Pettitte misheard him. Pettitte also says he told his wife, Laura, about the conversation the same day it happened.

Prosecutors had wanted to call Laura Pettitte as a witness to back up her husband's account, but Walton had said he wasn't inclined to have her testify since she didn't speak directly to Clemens.

Walton was angered that in the video prosecutors showed the jury, Rep. Elijah Cummings, D-Md., referred to Pettitte's conversation with his wife.

"I think that a first-year law student would know that you can't bolster the credibility of one witness with clearly inadmissible evidence," Walton said.

Well, yes, Reggie Walton is exactly right. It was not only an inappropriate attempt at backdoor admission of what was, at the time, hearsay but, much, much, more importantly flew directly in the face of a direct and specific previous order of the court on this EXACT issue. You just do *not* do that, and if you do you cannot whine when the court spansk your ass. You got said ass whuppin the old fashioned way, you earned it.

So, now the germane question is where do we go from here; i.e. what about a new trial. Well, that depends on a fair amount of pretty complicated things that are not going to be self evident to those not more than intimately experienced in the nuances of technical trial law are going to understand. I will get into that in detail, and discuss the legal implications and situation, when the pleadings are filed. Judge Walton has scheduled a Sept. 2

hearing on whether to hold a new trial, or dismiss the case permanently due to double jeopardy. Clemens' defense team will have until July 29 to file the motion to dismiss with prejudice and the prosecution has until Aug. 2 to respond.

A lot of judges would have tried to paper over this bogosity by the prosecution. Reggie Walton is PISSED. He may well say they are done based on double jeopardy. Those are gonna be fun briefs, and a very interesting oral argument.

One further thing, despite the incredibly short tenure of this jury trial – literally really in the first day of evidentiary presentation – today's antics were NOT the first instance of prosecutorial misconduct. Oh no, the government was acting maliciously and unethically from the get go in the opening statements.

[Judge Walton] said it was the second time that prosecutors had gone against his orders – the other being an incident that happened during opening arguments Wednesday when assistant U.S. attorney Steven Durham said that Pettite and two other of Clemens' New York teammates, Chuck Knoblauch and Mike Stanton, had used human growth hormone.

Walton said in pre-trial hearings that such testimony could lead jurors to consider Clemens guilty by association. Clemens' defense attorney objected when Durham made the statement and Walton told jurors to disregard Durham's comments about other players.

Yes, boy howdy, that is precisely right.

I think that the Laura Pettite bit, coupled with the improper attempt at prohibited guilt by association in the openings makes a fast pattern to malicious prosecution. If Reggie wants, he can dismiss and ground it upon both mistrial and sanction for malicious.

I've been telling people for years that it was NOT just former IRS goon come FDA stoolie agent Jeff Novitsky (although it *all* starts with him) that was malfeasant in the BALCO cases, including the Mitchell report kerfuffle, it was the AUSAs too.

This mendaciousness is just bogus and deplorable. Congratulations to Judge Reggie Walton for fingering it for what it is. Now dismiss this bunk forever please.