

Who Is Judge Richard Leon?

Exclusive: The appointment of federal judges is a key power of the U.S. president. It can reward partisan allies for past services and ensure favorable rulings in the future. Both factors were in play for District Judge Richard Leon who just struck down new cigarette warnings, writes Robert Parry.

By Robert Parry

On Monday, U.S. District Court Judge Richard Leon handed the tobacco industry a big victory by blocking a new federal requirement that cigarette packs carry graphic warning labels. Though the ruling may mean illness and premature death for many Americans, it wouldn't have come as a surprise to anyone who knew Leon's history as a partisan activist.

Leon was appointed to his lifetime judicial post by George W. Bush in 2002 after Leon had "earned" the gratitude of the Bush Family by protecting its interests as an aggressive and reliable Republican legal apparatchik on Capitol Hill. There, the heavy-set Leon gained a reputation as a partisan bully who made sure politically charged investigations reached a desired outcome, whatever the facts.

In the 1990s, Leon served as special counsel to the House Banking Committee as it transformed President Bill Clinton's minor Whitewater real estate deal into a major scandal that eventually led to the House vote to impeach Clinton in 1998 and thus set the stage for Bush's disputed election victory in 2000.

However, Leon's most important work for the Bushes may have come in the 1980s and early 1990s when he helped construct legal justifications for Republican law-breaking and sought to intimidate Iran-Contra-related witnesses who came forward to expose GOP wrongdoing.

In 1987, when Rep. Dick Cheney, R-Wyoming, was leading the Republican counteroffensive against the Iran-Contra investigation into evidence that President Ronald Reagan and Vice President George H.W. Bush had engaged in a wide-ranging conspiracy involving illegal weapons shipments and money transfers, Leon stepped forward as deputy chief counsel on the Republican side.

Leon worked with Cheney not only in fending off accusations of wrongdoing, but in coming up with a counter-argument that accused Congress of intruding on foreign policy prerogatives of the President.

"Congressional actions to limit the President in this area should be reviewed with a considerable degree of skepticism," the Republican minority report said.

“If they interfere with the core presidential foreign policy functions, they should be struck down.”

In 2005 as vice president, Cheney harkened back to that Iran-Contra minority report in defending George W. Bush’s assertion of unlimited presidential powers during wartime.

“If you want reference to an obscure text, go look at the minority views that were filed with the Iran-Contra committee,” Cheney told a reporter. Cheney said those old arguments “are very good in laying out a robust view of the president’s prerogatives with respect to the conduct of especially foreign policy and national security matters.”

So, one could say that Richard Leon was there at the birth of what became George W. Bush’s imperial presidency.

Cover-up of Crimes

But Leon’s crucial work went beyond building a legal framework for Republican presidents to ignore the law. More significantly, he conducted cover-ups of their crimes.

In 1992, when a House task force was examining evidence that Reagan and Bush began their secret contacts with Iran in 1980 while trying to unseat President Jimmy Carter, Leon was the Republican point man to make sure nothing too damaging came out. Leon served as chief minority counsel to the House task force investigating the so-called October Surprise allegations.

At the time, evidence was mounting that Reagan and the senior Bush had interfered with President Carter’s efforts to gain the release of 52 U.S. hostages held by Islamic radicals in Iran, a crisis that helped doom his reelection in 1980.

From the start of the congressional inquiry, however, the goal seemed more to debunk the allegations of Republican wrongdoing than to seriously assess the evidence. At one point, I went to the task force’s office and questioned chief majority counsel Lawrence Barcella and his assistant, Michael Zeldin, about this peculiar style of investigating.

Barcella and Zeldin pointed to Leon’s insistence that interviews with witnesses be conducted only with him or another Republican present. This stricture had sharply limited the task force’s ability to follow leads and develop new witnesses.

Indeed, some key October Surprise witnesses described to me how Leon sought to

intimidate them into retracting their allegations about Republican wrongdoing. When these witnesses refused to alter their sworn testimony, they became the targets of the task force, more so than Reagan and Bush.

Jamshid Hashemi, an Iranian businessman who had been recruited to assist the Carter administration on the hostage issue in 1980, alleged that he and his brother Cyrus Hashemi also helped Reagan's campaign chief William Casey arrange secret meetings with Iranian officials in Madrid in summer 1980.

Jamshid Hashemi's account of the Madrid meetings was publicized by ABC's "Nightline" program and later came under attack from journalists at the New Republic and Newsweek who apparently saw their role more as sweeping these troubling charges under the rug than getting at the truth.

In November 1991, both magazines splashed across their covers articles seeking to debunk Hashemi's claims of Madrid meetings by using an alibi for Casey that later turned out to be false. [For details, see Consortiumnews.com's "[Unmasking October Surprise Debunker](#)."]]

'The Fat Man'

When Jamshid Hashemi stuck to his account in sworn testimony before the task force in 1992, he said Leon tried to pressure him to recant his allegations. "I found this Mr. Leon who I knew as 'the fat man' every time we had a break and my lawyer would go to the washroom, he would rush into my room where I was sitting and say, 'come on, change the story'," Jamshid Hashemi told me.

"I said I would not change my story at all. The last time he opened the door, I said, 'Get out of my office. If you have anything to say, say it in front of my lawyer.'" Hashemi said Leon, rather than task force chief counsel Barcella, appeared to be running the October Surprise investigation with the goal of protecting Republicans.

I received a similar account of Leon's behavior from former Israeli intelligence official Ari Ben-Menashe, who had testified that he and other Israelis helped arrange a Paris meeting in October 1980 involving Casey, George H.W. Bush and key Iranians. Ben-Menashe said Leon demanded that he alter his sworn testimony as well, calling Leon "a Bush crony."

Besides Hashemi and Ben-Menashe, more than a score of individuals described Republican guilt including: ex-Iranian president Abolhassan Bani-Sadr (who sent the task force a detailed account of the Iranian-Republican contacts from his view in Tehran); senior officials of the Palestine Liberation Organization who described overtures from Republicans seeking help in interfering in the hostage crisis; and French intelligence chief Alexandre deMarenches (who told his

biographer about secret GOP-Iran hostage meetings in Paris, claims corroborated by other French intelligence officials).

Recently released documents from the George H.W. Bush presidential library also indicate how in 1992 the then-president and his team counted on Leon's help as the White House sought to restrict congressional access to key papers.

In a "top secret" memo dated June 26, 1992, to the State Department about cooperation with the October Surprise probe, National Security Council executive secretary William F. Sittmann demanded "special treatment" for NSC documents related to presidential deliberations.

Regarding the House task force, Sittmann recommended that only Republican counsel Leon and Democratic counsel Barcella be "permitted to read relevant portions of the documents and to take notes, but that the State Department retain custody of the documents and the notes at all times."

Though Republicans kept insisting that the October Surprise allegations were a myth, the Bush administration in 1992 was going to extraordinary lengths to control the evidence. [For details, see "Inside the October Surprise Cover-up."]

Mission Accomplished

Leon did his job well, constraining the investigation sufficiently to ensure that the task force fell in line with Republican demands that the October Surprise allegations be rejected.

Years later, Barcella told me that so much new evidence in support of the October Surprise allegations poured in late in the investigation in December 1992 that he urged task force chairman, Rep. Lee Hamilton, D-Indiana, to extend the deadline for several months. Hamilton, however, refused and ordered the probe wrapped up with a finding of Republican innocence.

However, even after the finishing touches had been put on the task force report clearing the Republicans, complications for Leon, Hamilton and the other debunkers continued to emerge.

On Jan. 11, 1993, just two days before the task force's debunking report was scheduled for release, the Russian government sent an extraordinary report to Hamilton describing Moscow's internal intelligence on the controversy.

The Russian report described Republican meetings with Iranians in Europe, including Casey's trip to Madrid and the Paris meeting that the Russians said also involved George H.W. Bush and then-CIA officer Robert Gates (and later U.S. Defense Secretary).

Instead of making the Russian report public, Barcella stuck it and its startling information in a cardboard box that was filed away with other classified and unclassified material from the investigation. (I found the Russian report later when I got access to the task force's raw documents. For the text of the Russian report, click [here](#). To view the actual U.S. embassy cable that includes the Russian report, click [here](#).)

While concealing the Russian report and other evidence supporting the October Surprise allegations, the House task force released its negative findings on Jan. 13, 1993, and went on the attack against the witnesses who had rejected Leon's demands that they recant their testimony.

In January 1993, task force leaks indicated that Jamshid Hashemi and Ari Ben-Menashe would be referred to the Justice Department for prosecution on perjury charges. However, no such charges were ever filed. Over the years, both Hashemi and Ben-Menashe have stuck to their stories.

When I re-interviewed Hashemi in 1997 about the October Surprise case, he said, "I thought it was my duty that the people in the United States should know. They should know, they should be the judge of it."

Though Hashemi sat through my interview with the same gentlemanly style that I encountered when I first met him in 1990, he did flash with anger when I asked him about the task force's report. "Rubbish, that's what I think," said Hashemi. "Just a whitewash of the whole situation. It's a cover-up."

Hashemi argued that it made no sense for him to have invented his October Surprise account, which he repeated under oath to Congress in 1992. He had nothing to gain and a great deal to lose, he said. "Who has ever paid me a single dime?" Hashemi asked. "I had to pay all my lawyer's fees. What did I gain here?"

Hashemi blamed the cover-up primarily on the attack strategy of Republican lawyers on the task force, particularly Richard Leon.

Casey in Madrid

In the recent release of documents from the Bush library, one was particularly relevant to Hashemi's claim that Casey had traveled secretly to Madrid, a claim that the New Republic/Newsweek articles and the House task force had rejected (albeit with contradictory and false alibis).

State Department legal adviser Edwin D. Williamson told associate White House counsel Chester Paul Beach Jr. that among the State Department "material potentially relevant to the October Surprise allegations [was] a cable from the

Madrid embassy indicating that Bill Casey was in town, for purposes unknown," Beach noted in a "memorandum for record" dated Nov. 4, 1991

In other words, even as the New Republic and Newsweek and then the House task force were impugning Hashemi's truthfulness about a Madrid trip, Bush's White House was aware of evidence that placed Casey in Madrid during the October Surprise time frame. [For more details on the October Surprise case, see Robert Parry's Secrecy & Privilege.]

Some Americans might see Richard Leon's partisan attacks on the October Surprise witnesses and his role in distorting U.S. history as disqualifying for a federal judgeship, but his actions actually paved the way for his appointment.

When George W. Bush, the eldest son of the former president, found himself in the White House in 2001 (with the help of five Republican justices on the U.S. Supreme Court), Leon's name landed on a list of judicial candidates. He was nominated by Bush on Sept. 10, 2001, and confirmed by the Senate on Feb. 14, 2002.

Thus, Leon was sitting on the federal bench when the tobacco industry needed some protection from a federal regulation requiring cigarette packs to carry graphic images showing the harmful effects of cigarettes on lungs and other parts of the human body.

The Food and Drug Administration estimated that the unsettling images would cut the number of smokers by 213,000 by 2013 and save \$221 million to \$630 million each year for the next two decades. But the cigarette industry didn't want to comply and Leon agreed.

After Leon's ruling striking down the requirement, tobacco companies expressed their pleasure, while health advocates voiced dismay. "Judge Leon's ruling ignores the overwhelming scientific evidence about the need for new cigarette warnings and their effectiveness," said Matthew L. Myers of the Campaign for Tobacco Free Kids.

However, it was not the first time that Richard Leon ignored evidence.

[For more on related topics, see Robert Parry's *Lost History, Secrecy & Privilege* and *Neck Deep*, now available in a three-book set for the discount price of only \$29. For details, click here.]

Robert Parry broke many of the Iran-Contra stories in the 1980s for the Associated Press and Newsweek. His latest book, *Neck Deep: The Disastrous Presidency of George W. Bush*, was written with two of his sons, Sam and Nat, and can be ordered at neckdeepbook.com. His two previous books, *Secrecy & Privilege*:

The Rise of the Bush Dynasty from Watergate to Iraq and Lost History: Contras, Cocaine, the Press & 'Project Truth' are also available there.
