

TIME INVESTIGATION

A Case of Selective Justice?

In Alabama a Democratic former Governor goes to prison. Top Republicans go untouched. A TIME investigation asks the questions the U.S. Attorneys didn't

BY ADAM ZAGORIN

ON MAY 8, 2002, CLAYTON LAMAR (Lanny) Young Jr., a lobbyist and landfill developer described by acquaintances as a hard-drinking "good ole boy," was in an expansive mood. In the downtown offices of the U.S. Attorney in Montgomery, Ala., Young settled into his chair, personal lawyer at his side, and proceeded to tell a group of seasoned prosecutors and investigators that he had paid tens of thousands of dollars in apparently illegal campaign contributions to some of the biggest names in Alabama Republican politics. According to Young, among the recipients of his largesse were the state's former attorney general Jeff Sessions, now a U.S. Senator, and William Pryor Jr., Sessions' successor as attorney general and now a federal judge. Young, whose detailed statements are described in documents obtained by TIME, became a key witness in a major case in Alabama that brought down a high-profile politician and landed him in federal prison with an 88-month sentence. As it happened, however, that official was the top Democrat named by Young in a series of interviews, and none of the Republicans whose campaigns he fingered were investigated in the case, let alone prosecuted.

The case of Don Siegelman, the Democratic former Governor of Alabama who was convicted last year on corruption charges, has become a flash point in the debate over the politicization of the Bush Administration's Justice Department. Forty-four former state attorneys general—

Republicans and Democrats—have cited "irregularities" in the investigation and prosecution, saying they "call into question the basic fairness that is the linchpin of our system of justice." The Department of Justice and the U.S. Attorney's office strongly deny that politics played any part in Siegelman's prosecution. They say the former Governor, who recently began serving the first months of his more than seven-year sentence, got exactly what he deserved. But Justice officials have refused to turn over documentation on the case requested by the House Judiciary Committee, which scheduled a hearing on Siegelman's prosecution for Oct. 11.

Now TIME has obtained sensitive portions of the requested materials, including FBI and state investigative records that lay out some of Young's testimony. The information provided by the landfill developer was central to roughly half the 32 counts that Siegelman faced for allegedly accepting campaign contributions, money and gifts in exchange for official favors. (Siegelman was acquitted on 25 of those counts and convicted on seven.

In this new Republican landscape, Siegelman emerged as one of the few Democratic stars

Young pleaded guilty to bribery-related charges and, in recognition of his cooperation with the government, received a short two-year sentence and fine.) But what Young had to say about Sessions, Pryor and other high-profile Alabama Republicans was even more remarkable for the simple fact that much of it had never before come to light.

The Young transcripts will probably add fuel to charges that the Bush Administration pursued selective justice in Alabama. Leura Canary, the U.S. Attorney whose office drove Siegelman's prosecution, is married to Bill Canary, Alabama's most prominent political operative and a longtime friend of Karl Rove's. In May an Alabama lawyer and Republican activist named Dana Jill Simpson gave a notarized statement that she heard Canary say Rove "had spoken with the Department of Justice" about "pursuing" Siegelman, with help from two of Alabama's U.S. Attorneys. Bill Canary called her charge "outrageous," and other alleged participants in the phone conversation issued similar denials. (The White House declined to comment, citing Siegelman's pending appeal.) But last month Simpson testified behind closed doors before the House Judiciary Committee. Sources tell TIME that, under penalty of perjury, she repeated her allegations about Canary and Rove.

ALABAMA IS AS RED A STATE AS THE CLAY in its earth. After the years of rule by Southern Democrats, Republicans have now taken up residence in the Governor's mansion, as well as most statewide offices and congressional seats. In the 1990s Rove helped orchestrate a GOP near sweep of the Alabama Supreme Court.

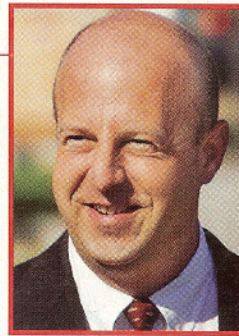
In this new Republican landscape, Siegelman emerged as one of the few Democratic stars, winning the Governor's race in 1998. He lost the seat in a close and contested race in 2002, but polls in 2003 showed that he had a good chance of recapturing the governorship. Then came the first indictment from the U.S. Attorney in Birmingham, charging Siegelman with using his position to rig a state bidding process. A judge dismissed the case in 2004 for lack of evidence. Just as Siegelman was preparing to run for Governor again, a second round of charges was brought in 2005 by the U.S. Attorney's office in Montgomery. His trial in 2006 overlapped with Alabama's Democratic primary, in which Siegelman had initially been a heavy favorite.

The investigation into Siegelman began as an inquiry into a contract held by Young to build a state warehouse in Alabama. Young was a well-liked figure in

Date of transcription 05/13/2002

CLAYTON LAMAR YOUNG, Jr., a white male with a date of birth of October 5, 1960, and a Social Security Administration Number of [REDACTED] voluntarily appeared at the United States Attorney's Office, Montgomery, Alabama, with his attorney [REDACTED]. YOUNG then provided the following information:

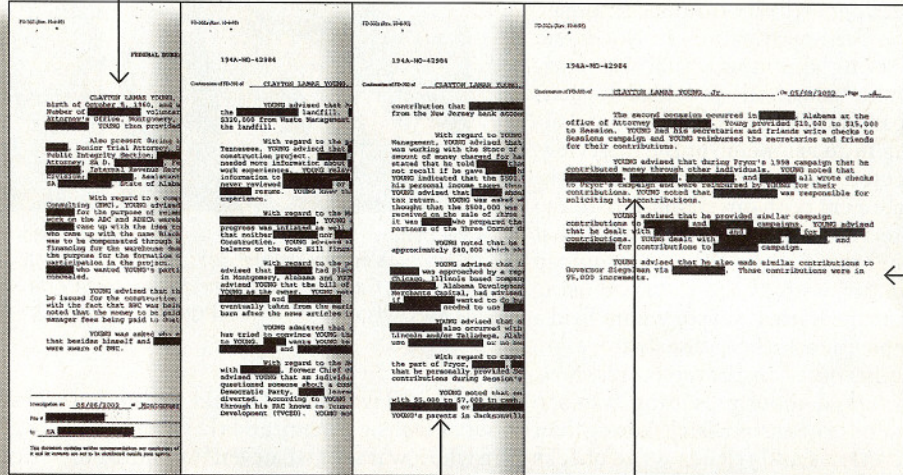
Also present during the interview of YOUNG were [REDACTED], Senior Trial Attorney, United States Department of Justice, Public Integrity Section; [REDACTED], Assistant United States Attorney; SA D. [REDACTED], Federal Bureau of Investigation; [REDACTED], Internal Revenue Service, Criminal Investigative Division; [REDACTED], Assistant Attorney General, State of Alabama; SA [REDACTED], State of Alabama Attorney General's Office.



Lanny Young
The lobbyist and landfill developer says he gave cash, checks and thousands of dollars' worth of T-shirts to Siegelman, Pryor and Sessions
Now Serving two years in prison

FBI Report: What the Witness Said

Young was a cooperating witness in a federal-state probe of former Alabama Governor Don Siegelman. During the investigation, he volunteered surprising details about his donations and gifts to some of the state's top politicians



With regard to campaign contributions made by YOUNG on the part of Pryor, [REDACTED], and Sessions, YOUNG advised that he personally provided Sessions with cash campaign contributions during Session's 1996 campaign.

YOUNG noted that on one occasion he provided Session with \$5,000 to \$7,000 in cash. The money was given to Session via [REDACTED] or [REDACTED] at the accounting office of [REDACTED].

A senior official in Sessions' campaign

The second occasion occurred in [REDACTED], Alabama at the office of Attorney [REDACTED]. Young provided \$10,000 to \$15,000 to Session. YOUNG had his secretaries and friends write checks to Sessions campaign and YOUNG reimbursed the secretaries and friends for their contributions.

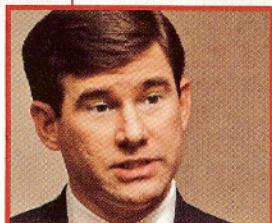
YOUNG advised that during Pryor's 1998 campaign that he contributed money through other individuals. YOUNG noted that [REDACTED], [REDACTED], and [REDACTED] all wrote checks to Pryor's campaign and were reimbursed by YOUNG for their contributions. YOUNG noted that [REDACTED] was responsible for soliciting the contributions.

A senior official in Pryor's campaign

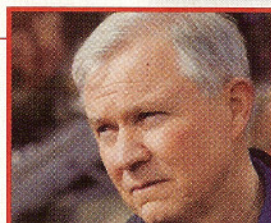
YOUNG advised that he also made similar contributions to Governor Siegelman via [REDACTED]. Those contributions were in \$5,000 increments.

Alabama reel

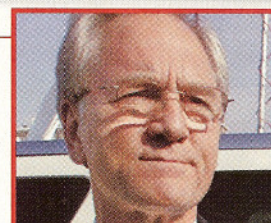
A federal judge, a Senator and a former Governor all received campaign contributions from lobbyist and landfill developer Lanny Young



William Pryor Jr.
During Pryor's tenure as attorney general, his office heard allegations from lobbyist Young, including some about Pryor's own campaign
Now A federal appeals-court judge for the 11th Circuit



Jeff Sessions
Young described laundering contributions via a top Sessions campaign aide when the then attorney general ran for the U.S. Senate
Now Re-elected Senator in 2002



Don Siegelman
Indicted in part because of Young's statements, the Democratic former Governor was convicted on seven counts of corruption in 2006
Now Serving an 88-month sentence in federal prison

Montgomery who, by his own account, was in the habit of handing out cash, checks, rides on his private airplane and other goodies to members of both political parties. In return, he apparently hoped to receive favorable treatment for his garbage dumps and other lucrative state-related business.

Young testified that he had furnished Siegelman with an all-terrain vehicle and a motorcycle, lavishing money on the Governor and his aides. But he was an equal-opportunity influence monger. Early in the investigation, in November 2001, Young announced that five years earlier, he “personally provided Sessions with cash campaign contributions,” according to an FBI memo of the interview. Prosecutors didn’t follow up that surprising statement with questions, but Young volunteered more. The memo adds that “on one occasion he [Young] provided Session [sic] with \$5,000 to \$7,000 using two intermediaries,” one of whom held a senior position with Sessions’ campaign. On another occasion, the FBI records show, Young talked about providing “\$10,000 to \$15,000 to Session [sic]. Young had his secretaries and friends write checks to the Sessions campaign and Young reimbursed the secretaries and friends for their contributions.”

If true, Young’s statements describe political money laundering that would be a clear violation of federal law. In 1996, when Young said he had made the contributions, it was illegal to give a candidate more than \$1,000 for a primary or general campaign. None of the individuals Young named as his intermediaries in making the donations are listed in Federal Election Commission records as contributors to Sessions’ 1996 U.S. Senate race. “We have on record a \$1,000 contribution from Mr. Young during the 1996 election cycle and no record of any other contribution from him,” says a spokesman for Sessions.

Young also openly offered details about what he said were donations totaling between \$12,000 and \$15,000 to Pryor’s campaign for state attorney general. Once again, Young had used the friends-and-colleagues maneuver. According to the FBI record, “Young advised that during Pryor’s 1998 campaign, he contributed money through other individuals.” Young named four people who “all wrote checks to Pryor’s campaign and were reimbursed by Young for their contributions.” At one point in the conversation, Young seemed particularly eager to tell all. “This was not just for the Governor’s [Siegelman’s] campaign,” he told investigators. “It was also for the attorney general’s campaign ... I gave you the example of five checks totaling

It’s a Small World

Bill and Leura Canary are an Alabama power couple: He gets top Republicans elected; her office prosecuted the Democratic former Governor



Bill Canary
Alabama's most prominent GOP operative, Canary is a longtime friend of Karl Rove and has advised Pryor



U.S. Attorney Leura Canary
Bill's wife Leura is the U.S. Attorney whose office led Siegelman's prosecution. She recused herself from the case

\$25,000. If I was there, I would write them out or just sign them, and they would fill in who it was to or whatever.” According to Young, a top official on Pryor’s campaign “would call and say, ‘I need money for this, this or this,’” and Young would take care of the request. (“I do not have a recollection of the amounts that you describe as having been contributed by Lanny Young or his associates to my campaign,” Pryor wrote in an e-mail to TIME.)

But it wasn’t always as impersonal as handing over a stack of bills or checks. Among the illegal actions alleged in Siegelman’s indictment was his acceptance from Young of thousands of dollars’ worth of free T shirts and hundreds of specially embossed coffee mugs to give away as Christmas presents. The freebies were popular, said Young. “I had got them coffee cups and stuff before and shirts, and I had the same thing for Bill [Pryor].” Young estimated the value of the mugs at \$13,000 to \$15,000, and he even offered to share the extras with his inquisitors: “I’ve still got a case of his [Pryor’s coffee cups] ... if y’all

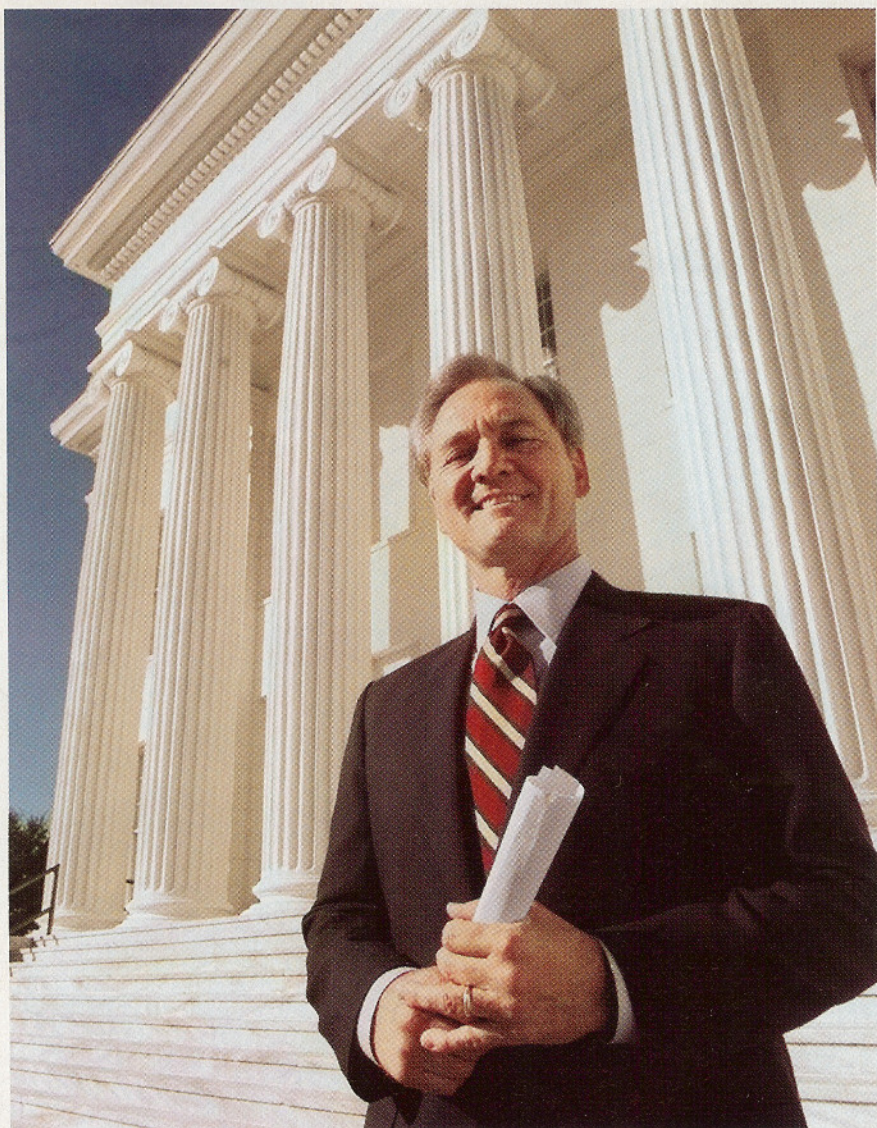
want to come get them.” (“I don’t think we want to touch them right now,” an investigator replied.)

THIS EVIDENCE WAS HEARD BY LAWYERS from U.S. Attorney Canary’s office, representatives of Alabama’s Republican attorney general and an attorney from the Justice Department’s public-integrity unit in Washington. But in an unusual exercise of prosecutorial discretion, nearly all the payments and donations went uninvestigated. And when Siegelman’s defense team, which had obtained Young’s statements amid tens of thousands of documents provided in discovery, raised his accusations briefly in court, a judge quickly ruled them irrelevant.

Legal experts say prosecutors enjoy wide latitude in deciding whom to charge in criminal cases. But according to Laurie Levenson, a former assistant U.S. Attorney and a prominent expert in legal ethics at Loyola Law School in Los Angeles, there are limits. “Certainly prosecutors would face a professional obligation to check out or verify the allegations in this case,” she says. “Not doing so would represent a potential abuse of prosecutorial discretion.” The key, she adds, is whether prosecutors chose not to pursue evidence of criminal activity by Republicans because of political bias or a conflict of interest. Sometimes prosecutors have a more benign motive; they may simply verify that allegations are untrue or be unclear on how to categorize the offense or the relevant statute of limitations. Certainly in Young’s statements about Sessions and Pryor, he did not allege a quid pro

‘Prosecutors would face a professional obligation to check out or verify the allegations in this case.’

—LAURIE LEVENSON, A FORMER ASSISTANT U.S. ATTORNEY



Paying a heavy price *Siegelman's seven-year sentence for accepting bribes has become a flash point for Bush critics*

had lied, that would also have diminished Young's credibility as a key government witness against Siegelman. One of Young's lawyers tells *TIME*, "There was never the slightest suggestion by prosecutors that the information my client provided about contributions to Sessions and Pryor was in any way untrue." The judge in the Siegelman case also seemed to find Young credible: he stated at sentencing that he had increased the sentencing guidelines for the Governor on the basis of a prosecution memo that alleged "systematic and pervasive corruption" and cited a "criminal relationship with Lanny Young."

THE CONTROVERSY SURROUNDING THE CASE in Alabama is not that Siegelman went to prison and his Republican colleagues didn't. Without an investigation or even questions being asked, it's impossible to know whether any of them committed illegal acts. The issue is that some of the same allegations that led to Siegelman's indictment never merited so much as a follow-up when raised in connection with Republicans.

U.S. Attorney Canary has vigorously rejected the suggestion of any political influence on the case. She has pointed out that the investigation of Siegelman originated not with her but with her Democratic predecessor as U.S. Attorney and in the office of Alabama's then attorney general, Bill Pryor. Moreover, she notes that she was in charge of the case for only eight months, long before indictments were handed down, and then publicly recused herself to avoid even the appearance of a conflict of interest.

Yet Canary was in charge when Young spoke about his payments to the Sessions and Pryor campaigns and to other Alabama Republicans. At the same time, her husband's consulting firm, Capitol Group LLC, was being paid close to \$40,000 to advise Pryor. A source who held a senior post in Canary's office during the long-running investigation into Siegelman says it's almost inconceivable that Canary would not have been informed of Young's charges against prominent Republican officeholders and candidates. Canary denied that to *TIME*. The fact that those charges were never looked at will only heighten suspicions that the Siegelman prosecution was a case of selective justice and that in the Bush Administration, enforcing the law has been a partisan pursuit. ■

quo for his money laundering of their campaigns. And whatever the involvement of their campaigns, Sessions and Pryor both assert they were completely unaware of his confessed chicanery. But the U.S. Attorney's office chose to prosecute Siegelman in no small measure on the basis of Young's word and chose not to investigate Sessions and Pryor—or their campaigns—on the basis of that same word.

Several people involved in the Siegelman case who spoke to *TIME* say prosecutors were so focused on going after Siegelman that they showed almost no interest in tracking down what Young said about apparently illegal contributions to Sessions and Pryor, other well-known figures in the Alabama GOP and even a few of the state's Democrats. "It just didn't seem like that was ever going to happen," said an individual present during key parts of the investigation. "Sessions and Pryor were on the home team."

That description is not just a metaphor: several of the lawyers involved in the Siegelman investigation were from Pryor's office and had worked for Sessions as well when he held the post. In such circumstances, say experts on legal ethics, it is nearly always incumbent on investigators to inform a third party and recuse themselves from further questioning to avoid a conflict of interest. In this instance, it appears the investigators chose not to recuse themselves but to simply ignore the allegations. (Steve Feaga, an assistant U.S. Attorney in Canary's office, says, "I'm confident that we investigated every viable federal crime and prosecuted them.")

The fact that most of Young's claimed contributions apparently went unrecorded raises the possibility that he never made them, that he was merely boasting. But it would also mean that he had lied to federal agents, which is a felony, and Young was never charged with that crime. If he