



Judge Awards \$1.7 Million in EPA Malicious Prosecution Case

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On September 30, 2011, the U.S. District Court for the Western District of Louisiana [ordered the United States to pay \\$1.7 million in a malicious prosecution lawsuit](#) to Hubert Vidrine, based on findings that the U.S. government had maliciously prosecuted Vidrine for alleged environmental crimes. This is a rare ruling by a federal court requiring the government to pay money damages for the overzealous actions of its agents.

In September 1996, agents from multiple law enforcement agencies and the Environmental Protection Agency (EPA) executed a search warrant on Canal Refining Company, where Vidrine worked as a manager. The search was based on the assertion that hazardous materials may have been improperly stored at the facility in violation of the Resource Conservation and Recovery Act. However, the search did not uncover evidence of any violations.

In December 1999, more than three years after the execution of the search warrant, Vidrine was indicted on one count of knowingly storing hazardous waste on the property of Canal Refining, in violation of 42 U.S.C. § 6928(d)(2). In September 2003, more than seven years after the execution of the search warrant, the government filed a motion to voluntarily dismiss the indictment against Vidrine. This motion was granted.

In 2007, Vidrine filed a civil suit for malicious prosecution under the Federal Tort Claims Act, a statute allowing private parties to sue the United States in a federal court for most torts committed by persons acting on behalf of the United States. The court held that “probable cause did not exist to support knowledge on the part of Hubert Vidrine – the lynch pin to any possible criminal prosecution at issue.” The court also held that punitive damages are not allowed in cases brought against the government, but that if they were allowed, they would have been awarded in this case.

Keith Phillips, the EPA agent who spearheaded the investigation and subsequent indictment, later [pleaded guilty to obstruction of justice and perjury relating to his false testimony during a deposition](#) for the civil malicious-prosecution suit that led to the \$1.7 million award to Vidrine. Phillips lied about an affair that he was having with an FBI agent also assigned to the Vidrine case.



In fact, Judge Rebecca F. Doherty wrote, “The evidence strongly indicated Agent Phillips deliberately used his investigation and prosecution of Hubert Vidrine to foster, further, facilitate and cloak his extra-marital affair with [FBI] Agent [Ekko] Barnhill, and perhaps, to exert improper influence over the manner in which she investigated and reported upon this case.”

Phillips faces up to 15 years on the criminal charges. No sentencing date has been set.

Judge Doherty’s detailed ruling in the civil case is a very important one for criminal defendants. It shows that courts will hold the government accountable when its agents initiate overzealous prosecutions of individuals. This is an important check on the government’s power over criminal defendants. It is a desirable development that individual agents are also being held accountable for their unlawful actions.

Crime in the Suites is authored by the Ifrah Law Firm, a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

The commentary and cases included in this blog are contributed by Jeff Ifrah and firm associates Rachel Hirsch, Jeff Hamlin, Steven Eichorn and Sarah Coffey. These posts are edited by Jeff Ifrah and Jonathan Groner, the former managing editor of the Legal Times. We look forward to hearing your thoughts and comments!



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