

RUFF - SUSAN McDOUGAL

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Office of the Independent Counsel

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February 14, 1997

The Honorable Charles F. C. Ruff  
Counsel to the President  
The White House  
Washington, D.C. 20500

Dear Mr. Ruff:

As you know, President Clinton's former business partner, Susan McDougal, has refused to testify before a federal grand jury in Little Rock. Upon careful reflection, we are concerned that President Clinton, by his public statements, has reinforced Ms. McDougal's unlawful intransigence. I am writing to ask that the President remove this serious obstacle to our inquiry.

As is publicly known, Ms. McDougal received a subpoena to testify before the Little Rock grand jury that is continuing to investigate Whitewater-related matters. Judge Susan Webber Wright denied her motion to quash and issued an immunity order. On September 4, 1996, Ms. McDougal appeared before the grand jury and refused to answer questions. She was held in contempt of court and incarcerated so as to compel her compliance with a lawful order of a United States District Court. Her appeal has been denied by the Eighth Circuit.

Ms. McDougal obviously can provide relevant evidence to the grand jury. The evidence at her trial; her relationships with the Clintons through Whitewater Development Corporation and otherwise; her answers to journalists' questions over the last few months; and her refusal to answer certain questions in media interviews, some quite recent -- all conclusively demonstrate that she possesses knowledge highly pertinent to the grand jury's investigation.

Ms. McDougal's stated rationale for refusing to testify before twenty-three Arkansans is that, in her view, Office of Independent Counsel investigators are seeking certain kinds of testimony, whether true or false. She has articulated this grave allegation in a series of media interviews. Needless to say, she has offered no evidence to support it, and neither the District Court nor the Eighth Circuit has credited it.

The Honorable Charles F. C. Ruff  
February 14, 1997  
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However, in a nationally televised PBS interview on September 23, 1996, President Clinton made comments that appeared to endorse Ms. McDougal's charges of misconduct. Asked about her claim that the Independent Counsel is seeking testimony against the Clintons without regard to its truthfulness or falsity, the President said: "There's a lot of evidence to support that." Asked if the Independent Counsel was out to get him, the President twice said, "Isn't it obvious?" These remarks, uttered in the White House, were televised just two weeks after Ms. McDougal's incarceration. Moreover, recent reports in the media, including Ms. McDougal's own statements, provide additional bases for our concern.

In sum, a key witness has unlawfully refused to testify before a duly empaneled federal grand jury, and we believe that the President, wittingly or unwittingly, has encouraged her unlawful behavior. In effect, the President, who is the charged by the Constitution with the faithful execution of the law, has raised an obstacle in this federal criminal investigation. Accordingly, in the interests of justice and the orderly conduct of this investigation, we request that the President publicly urge Ms. McDougal to testify truthfully before the federal grand jury in Little Rock.

Yours sincerely,



KENNETH W. STARR  
Independent Counsel



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March 7, 1997

The Honorable Charles F. C. Ruff  
Counsel to the President  
The White House  
Washington, D.C. 20500

Dear Mr. Ruff:

At our meeting on February 26, you asked if we had any other concerns, beyond that discussed in our February 14 letter, relating to Susan McDougal's refusal to testify before the grand jury. Upon further reflection, we have determined that it is appropriate, in light of your inquiry, to raise one additional matter.

In his PBS interview on September 23, 1996, President Clinton was asked whether he might pardon Ms. McDougal and her co-defendants. While saying he had given the option no consideration, he declined to rule it out. The President took the same position in an exchange with reporters on October 4 and in a televised debate on October 14.

In the PBS interview, the President said that any decision to pardon Ms. McDougal would be made through the "regular process," based on evaluation by the Justice Department. That answer would seem to preclude a pardon during the course of the Administration, in view of the fact that, under its practice, the Justice Department would not consider her pardon petition until five years after she completes her sentence. See 28 C.F.R. § 1.2. By refusing to rule out a pardon, however, the President created some uncertainty about whether he might act outside that process.

Ms. McDougal has cited many reasons for refusing to testify. She has recently claimed she has no desire for a pardon; in September, however, she said that "anyone in my position would want a pardon." While we recognize that the Constitution grants the President sole and final authority over pardons, the lingering uncertainty about President Clinton's intentions may be a factor influencing Ms. McDougal's behavior.

Yours sincerely,

Kenneth W. Starr  
Independent Counsel



**Office of the Independent Counsel**

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April 29, 1997

Charles F. C. Ruff, Esq.  
White House Counsel  
The White House  
Washington, DC 20500

Dear Mr. Ruff:

After careful reflection, I have decided to respond to your letter of April 4, 1997, regarding the President's September 1996 comments about the Susan McDougal situation.

At the outset, you may well be correct that my request of February 14 was unprecedented. But I am aware of no precedent for the situation that prompted my request: a President publicly indicating his essential agreement with a convicted felon's asserted reason for her continuing contumacious behavior.

You state that, in your judgment, it would be inappropriate for the President to offer what you describe as advice to any individual about her legal obligations. The President articulated the same position in public statements aired on Sunday, April 27. That position might be persuasive if the President had consistently followed a "no comment," hands-off policy regarding this criminal investigation. He has not done so, either generally or as to Ms. McDougal's situation. His public comments on September 23, 1996, indicated his essential agreement with Susan McDougal's proffered reason for unlawfully refusing to testify before the grand jury -- a position, it should be noted, that has been emphatically rejected by the federal courts. As should have been obvious at the time, the President's comments may well have had an effect on Ms. McDougal's decision to continue to flout the law. In addition, while it is the function of any attorney to provide legal advice to his client, in this instance, the law -- indeed, the law of the case -- is crystal clear: Ms. McDougal is legally obligated to testify.

The President's statements last fall are inconsistent with his current position that he should not comment on Ms. McDougal's continued contumacy. In light of what already has occurred, therefore, we believe it would be entirely appropriate for the President to say publicly that Ms. McDougal, like all citizens, should obey the law and testify truthfully before the grand jury.

Sincerely,

Kenneth W. Starr  
Independent Counsel

THE WHITE HOUSE  
WASHINGTON

April 4, 1997

Kenneth W. Starr, Esq.  
Independent Counsel  
Suite 490 North  
1001 Pennsylvania Ave., N.W.  
Washington, D.C. 20004

Dear Mr. Starr:

This is in response to your letter of February 14, 1997, as supplemented by your letter of March 7.

I have given considerable thought to your unusual -- indeed, unprecedented in my experience -- request that the President speak publicly concerning the refusal of Susan McDougal to testify before the grand jury. The President has neither said nor done, wittingly or unwittingly, anything in the slightest degree improper, and I reject the suggestion that he has somehow encouraged Ms. McDougal to violate the law. It would, in my judgment, be entirely inappropriate for him to offer advice to any individual, particularly one who is represented by counsel, concerning her legal rights or obligations.

Sincerely,



Charles F.C. Ruff  
Counsel to the President

- \* she had a lawyer before => inappropriate
- \* pay back fees
- \* not hands off
- \* totally inappropriate + has practical effect of impeding investigation
- \* HICKMAN EWING

THE WHITE HOUSE  
WASHINGTON

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Sincerely,



Charles F.C. Ruff  
Counsel to the President

*Reynolds*

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