



October 4, 2011

# Rogue EPA Agent Pleads Guilty to Obstructing Justice

By LAWRENCE HURLEY of 

A former U.S. EPA agent who spearheaded the wrongful indictment of an refining plant manager -- possibly to cover up his affair with an FBI agent -- has pleaded guilty to obstruction of justice and perjury in a related civil case.

Keith Phillips, who signed a plea bargain yesterday in the U.S. District Court for the Western District of Louisiana, faces up to 10 years in prison on the obstruction of justice count and five years for the perjury count.

Phillips' guilty plea does not relate to his actions in the aborted criminal prosecution of Hubert Vidrine Jr. and Canal Refining Co., which is based in Church Point, La. The charges stemmed instead from his testimony in a civil malicious prosecution action brought by Vidrine.

In his deposition, Phillips falsely testified that he did not have an affair with FBI agent Ekko Barnhill during the Vidrine investigation, which lasted from September 1996 to December 1999 (*Greenwire*, July 28).

A federal judge awarded Vidrine \$1.67 million for malicious prosecution in a ruling issued Friday that included considerably more detail about Phillips' conduct. The criminal charges against Vidrine were dropped in 2003.

The original 1996 raid on the plant was based on the assertion that hazardous materials may have been improperly stored there in violation of the Resource Conservation and Recovery Act. Although the search did not uncover any evidence of any violations, Vidrine was indicted in 1999 based in large part on Phillips' testimony before a grand jury.

In Friday's 142-page ruling, U.S. District Judge Rebecca Doherty wrote that Phillips, who was handling his first case as an investigative agent, had lied to the grand jury.

It remains unclear exactly what his motives were.

Doherty discussed three possibilities: that Phillips wanted to "have a cover and vehicle for his

illicit sexual affair" with Barnhill; that he had a "personal vendetta" against Vidrine; or that his position as a "newly minted" criminal investigator had gone to his head.

The Vidrine case could have served as cover because Phillips was married and lived in Dallas, while Barnhill was single and lived in Louisiana.

Doherty wrote that she was inclined to agree with Vidrine's lawyers that, at least in part, Phillips "used the Vidrine investigation as a cover, excuse and opportunity to facilitate his illicit affair with Agent Barnhill and to hide the affair from his wife."

Regardless of the motive, "it is patently clear Agent Phillips lacked the innate judgment and experience necessary to counter his over zealousness," Doherty wrote. "It is sufficient for this court to find Keith Phillips set out with a flagrant and reckless disregard of the rights of Hubert Vidrine."

Although there was probable cause to investigate the refinery plant based on information from a separate investigation, there was no probable cause to indict Vidrine, the judge added.

Vidrine's case was handled by the Washington Legal Foundation, a conservative legal group in Washington. Attorney Richard Samp said the case is "a poster child for the abuses that can occur when the federal government unleashes its awesome prosecutorial powers without adequately supervising the work of its agents."

David Uhlmann, former chief of the environmental crimes section at the Justice Department, said he could not recall any other cases in which plaintiffs were awarded damages under the Federal Tort Claims Act based on a malicious prosecution in an environmental case.

"It's obviously troubling that a federal district court judge has concluded that a federal criminal investigator abused his authority and misled prosecutors," he added.

Uhlmann, who now heads the environmental law and policy program at University of Michigan Law School, noted that "fortunately, this is an isolated situation."

The Justice Department declined to comment.

[Click here \(pdf\)](#) to read Judge Doherty's ruling.

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