



Published: 08.04.2007

Court: FBI off base in Jefferson file search

THE ASSOCIATED PRESS

WASHINGTON — The Justice Department trampled on congressional independence when raiding U.S. Rep. William Jefferson's office last year, a federal appeals court ruled Friday, siding with Congress in a constitutional showdown.

In a rare textbook case involving all three branches of government, the court held that investigators violated the Constitution by reviewing legislative documents as part of a corruption investigation.

The court ordered the Justice Department to return any legislative documents it seized from the Louisiana Democrat's office on Capitol Hill. Still undecided is whether prosecutors can use other records it confiscated as part of their bribery case against Jefferson.

The raid was part of a 16-month international bribery investigation of Jefferson, who is accused of accepting \$100,000 from a telecommunications businessman, \$90,000 of which was later recovered in a freezer in the congressman's Washington home.

Jefferson pleaded not guilty in June to charges of soliciting more than \$500,000 in bribes while using his office to broker business deals in Africa.

Viewed every record

The Justice Department has predicted a ruling such as the one Friday will turn Congress into a haven where lawmakers can keep evidence of corruption off-limits to prosecutors.

That's not the case, said the three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit. The raid itself was constitutional, the court held. But the FBI crossed the line when it viewed every record in the office without allowing Jefferson to argue that some involved legislative business.

The Constitution prohibits the executive branch from using its law enforcement powers to interfere with the lawmaking process.

"The review of the congressman's paper files when the search was executed exposed legislative material to the executive" and violated the Constitution, the court wrote.

The court did not rule whether, because portions of the search were illegal, prosecutors should be barred from using any of the records in their case against Jefferson. That will be decided by a Virginia federal judge presiding over the criminal case, which is scheduled for trial in January.

Notification required

Defense attorney Robert Trout said that fight is ahead. He accused the government of "overreaching" in its investigation.

The Justice Department said Friday it was pleased prosecutors were allowed to keep records unrelated to legislative business. Spokes-man Brian Roehrka said the department was disappointed, however, because the ruling required authorities to notify lawmakers before any raid.

The court did not say lawmakers would have to have advance notice of the FBI's arrival. Rather, the court said the Justice Department can't broadly review legislative records.

One solution mentioned in the opinion was for FBI agents to lock down the office, then allow the lawmaker to

set aside disputed documents. It would be up to a judge — not the FBI — to decide whether the records could be seized.

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