



For Immediate Release

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**EPA SUED FOR FIVE MILLION DOLLARS
FOR MALICIOUS PROSECUTION**
(Vidrine v. United States)

The Washington Legal Foundation (WLF) filed a federal lawsuit today in U.S. District Court for the Western District of Louisiana in Lafayette against the United States for maliciously prosecuting Hubert P. Vidrine, Jr. of Opelousas, LA, for allegedly storing a hazardous substance without a permit from the Environmental Protection Agency (EPA). After four years of prosecution, felony charges were suddenly dropped on the eve of trial in September 2003 after Vidrine discovered that the only witness for the government was addicted to cocaine causing hallucinations. Even after putting their witness under hypnosis in vain, the EPA could not produce the allegedly hazardous substance or any test results. The suit, filed under the Federal Tort Claims Act (FTCA) seeks a total of \$5 million in damages.

Mr. Vidrine, a plant manager at Canal Refining Co. in Church Point, LA, was indicted in 1999 in federal court for allegedly violating the Resource Conservation and Recovery Act (RCRA) for the improper storage of hazardous waste without a permit. A few years before Vidrine was indicted, a "SWAT Team" consisting of almost two dozen armed Special EPA Agents from EPA's Criminal Investigation Division (CID), FBI, and other law enforcement officers raided Canal Refining with M-16 rifles and police dogs; falsely accused Mr. Vidrine of storing hazardous waste and lying about it; prevented employees from using the restrooms for several hours; prevented those same employees from calling their homes and daycare centers to make plans to have children picked up; falsely told the employees that Mr. Vidrine had been poisoning them and giving them cancer; and threatened them with imprisonment if they did not provide damaging evidence against Mr. Vidrine.

It appears that the EPA's chief witness in the case, Mike Franklin, claimed that he had taken samples of the alleged hazardous waste and had it tested. However, neither the EPA nor federal prosecutors could produce the test results allegedly proving RCRA violations. Mr. Vidrine later discovered that Mr. Franklin was addicted to cocaine. Nevertheless, federal prosecutors and the EPA insisted on using Mr. Franklin as their key witness, even though subpoenas issued by the prosecutors to chemical testing laboratories in the area failed to turn up any lab results of the alleged hazardous waste in question. To no avail, the government went so far as to place Mr. Franklin under hypnosis in a desperate attempt to obtain information about the alleged testing samples. The trial judge ruled that Mr. Franklin could not be used as a witness.

At the urging of EPA agents, federal prosecutors continued to insist that the government should be able to use Mr. Franklin as their key witness and appealed the judge's decision to exclude Mr. Franklin's testimony to the Fifth Circuit. They reluctantly withdrew the appeal when the U.S. Solicitor General's Office decided not to approve it. On September 17, 2003, on

the eve of trial, federal prosecutors filed a motion to dismiss the indictment against Mr. Vidrine and two other defendants, which was granted the next day.

Mr. Vidrine was forced to spend over \$180,000, his entire retirement savings, to defend himself against the bogus charges. After the charges were dropped, Mr. Vidrine stated, "I didn't think that this could happen in America." Mr. Vidrine contacted WLF for legal assistance because of WLF's work on behalf of another small business in Worcester, Massachusetts, which was raided by armed EPA agents and where EPA misconduct led to charges being dropped on the eve of trial against the company (Riverdale Mills Corp.) and its owner (James M. Knott, Sr.). WLF filed complaints in November 2003 with EPA's Inspector General and the Office of Professional Responsibility of the Department of Justice to investigate the misconduct.

In September 2005, Vidrine filed a claim for damages against the EPA and the Department of Justice under the FTCA for compensation for malicious prosecution and other misconduct. Both agencies have failed to respond to Vidrine's claim, thus necessitating the filing of today's lawsuit.

"This is an outrageous case of malicious prosecution and misconduct by the EPA and the U.S. Attorney's Office in Louisiana," said Paul Kamenar, WLF's Senior Executive Counsel. "The EPA and the Department of Justice has a sad history of using heavy-handed tactics and criminalizing business activities where administrative or civil remedies would be more appropriate," Kamenar added. WLF is a pro-free enterprise public interest law and policy center based in Washington, D.C. WLF's legal assistance in this case is being provided as part of WLF's CRIMINALIZATION OF FREE ENTERPRISE-BUSINESS CIVIL LIBERTIES PROGRAM. As part of that program, WLF filed petitions with the EPA and DOJ in recent weeks demanding that environmental criminal prosecution policy be overhauled to preclude criminal prosecution of cases where there is little or no environmental harm and no criminal intent, and to use administrative and civil remedies instead.

WLF is providing legal assistance to Mr. Vidrine and his attorney, Gary Cornwell of Beaumont, Texas. William Goforth of Lafayette, LA is serving as local counsel. The case is *Vidrine v. United States*, No. 6:07-CV-1204.

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For further information, contact Paul Kamenar, WLF's Senior Executive Counsel, at 202-588-0302. A copy of the lawsuit and WLF's EPA and DOJ petitions are posted on WLF's website at www.wlf.org.