

[Appellant's Appendix: 1325-1330]

**Transcript of petitioner's April 19, 2004 trial motion  
for judgment of acquittal**

**[1325]**

Judge Holeman: ...When we resume in 10 minutes, we'll call the jury in, the defense will rest its case and we will then begin with my --

Sassower: Excuse me.

Judge Holeman: -- charging the jury.

Sassower: I have a motion, as is my right.

Judge Holeman: Very well.

Sassower: And may the record reflect that [1326] the Court is resting for me. I do not rest, as I was precluded, prevented from giving direct testimony from the stand as to the critical facts pertaining to this --

Judge Holeman: What is your motion?

Sassower: -- bogus, malicious --

Judge Holeman: What is your motion?

Sassower: I --

...

Sassower: Again, I make a motion for judgment of acquittal for this case which fails as a matter of law. The evidence now resoundingly shows that the Senate Judiciary Committee hearing was adjourned.

That at issue is a public congressional hearing at which a respectful request was made to testify. That is consistent with what a hearing is supposed to be about.

Judge Holeman: The question --

Sassower: The taking –

Judge Holeman: The question –

Sassower: -- and receiving of testimony.

Judge Holeman: The question for purposes of your motion is whether or not a reasonable fact finder could [1327] find proof beyond a reasonable doubt. That is your argument. That is the scope of it and make the argument now.

Sassower: Well, there is no precedent and none has been shown of another case where a citizen's respectful request at a public congressional hearing has resulted in an arrest. This, the, you not only have no act of disruption.

The whole idea that a respectful request at a public hearing to testify is disruption is an anathema, cannot be. And you have no appearance here by the complainant, Senator Chambliss, in support of this prosecution.

Apparently no one at the Senate Judiciary Committee is willing to put their name to such a proposition that a respectful request to testify at a congressional hearing is disruption of Congress.

Now, there is no evidence in the record that I intended anything but to respectfully and appropriately request to testify, which is what I did.

And that intent is clear as a bell stated over and again and most particularly in the 39-page May 21<sup>st</sup> fax to, to Capitol police, copies of which went to the Senate Judiciary Committee, to Senator Schumer, Senator Clinton.

[1328] Judge Holeman: What's your next point, Ms. Sassower?

Sassower: Okay. Again –

Judge Holeman: No.

Sassower: There is no sign at the Senate Judiciary Committee – don't even think about requesting to testify. There is no presentation of any rules or regulations as relates to requests to testify at a public hearing.

And there is no, there is evidence that I inquired as to the rules and procedures and none were forthcoming.

Finally, again critical to this charge is that when someone claims the right to speak in a public place, the crucial question is whether the manner of expression is basically incompatible with the normal activity of a particular place at a particular time.

Again, we are talking about a public congressional hearing, hearing.

Judge Holeman: Very well.

Sassower: And –

Judge Holeman: Very well. I've heard Enough.

Sassower: -- consistent with the –

Judge Holeman: Please be seated.

[1329] Sassower: -- purpose of a hearing.

Judge Holeman: No, excuse me. We're done. Mr. Mendelsohn.

Mendelsohn: Your Honor, viewing the evidence in the light most favorable to the government, as the Court must do at this time, we believe the evidence more than sufficiently shows that a reasonable mind could find beyond a reasonable doubt that the defendant committed the offense of disruption of Congress on May 22<sup>nd</sup> 2003.

Judge Holeman: Very well. The standard for ruling on a

motion for judgment of acquittal, as I previously stated for the record, is set forth in *Curley vs. United States*, 81 U.S. App. D.C. 389, page 392, 160 F.2d 229, page 232. It's a 1947 case.

Simply put, the standard is as follows: If there is no evidence upon which a reasonable mind might conclude guilt beyond a reasonable doubt, the motion must be granted.

In reviewing the facts of this case in the light most favorable to the government, as the Court must do in such a motion, certainly there has been the presentation of evidence from which a reasonable fact finder could find guilt beyond a reasonable doubt.

On that basis, the motion for judgment of acquittal [1330] is denied.