

CONFIDENTIAL

October 24, 2010

From: David Brock
Re: Memo on Impeaching Clarence Thomas

Lillian McEwen – a former prosecutor, law professor and administrative law judge -- says publicly for the first time she was romantically involved with Clarence Thomas during the entire time that Anita Hill worked for Thomas. She was subpoenaed neither by the Democrats nor the Republicans during the hearings (even though she wrote a personal note to Biden, for whom she had once worked on the Judiciary Committee, telling him that she had personal knowledge of Thomas). Her recent interviews with the Washington Post (10-22) and The NY Times (10-23) and the ABC Washington affiliate (10-23) are the first record of her information.

(Personal note: During my reporting for The Real Anita Hill, every potential friendly witness for Thomas was made available to me through close Thomas associates. They held McEwen forth to me as evidence that her relationship with Thomas negated the possibility that he pressured Hill to date him and also that Hill's knowledge of the relationship made Hill angry that she could not attract Thomas's romantic attention. In his Senate testimony Thomas himself had made that suggestion in an exchange with Specter. Thomas said he had tensions with Hill because of "the complexion of the woman I dated." McEwen is light-skinned. McEwen, assumed by me to be a friendly witness, was NOT made available to me by the Thomas associates, however. It is now obvious why. They knew better).

PORNOGRAPHY IN THE WORKPLACE

NYT: Ms. McEwen said that pornography for Justice Thomas was "just a part of his personality structure." She said he kept a stack of pornographic magazines, "frequented a store on Dupont Circle that catered to his needs" and *allowed his interest in pornography to bleed into his professional relationships.*

Dowd (10/24): In her interviews McEwen confirmed Thomas's obsession with women with "huge, huge breasts," with scouting the women he worked with as

possible partners *and with talking about porn at work* – while he was the head of the federal agency that polices sexual harassment.

Thomas testimony:

Leahy: Let me ask you – she has asked whether this happened – let me ask you: Did you ever have a discussion of pornographic films with Professor Hill?

Thomas: Absolutely not.

LEAHY: Have you ever had such discussions with any woman?

Thomas: Senator, I will not get into any discussion that I might have had about my personal life or my sex life with any person outside the workplace.

Leahy: I'm not asking –

Thomas: I will categorically say that I have not had any such discussions with Professor Hill.

Leahy: Please don't misunderstand my question judge. I am confining it to the workplace. I have no interest in what may be your personal life in this. That's yours. What I'm asking is within – she alleges within the workplace. Make sure I fully understand—I'm asking you this question so that you can give the answer. Am I correct in understanding your answer, within the workplace with Professor Hill, you never had such a discussion?

Thomas: Right.

Leahy: You never had such discussions within the workplace with any other women?

Thomas: That's right.

Leahy: Or with anyone for that matter?

Thomas: Right.

WORKPLACE BEHAVIOR

WP: To McEwen, Hill's allegations that Thomas had pressed her for dates and made lurid sexual references rang familiar. "He was always actively watching the women he worked with to see if they could be potential partners. It was a hobby of his."

WP: According to McEwen, Thomas would also tell her about women he encountered at work. He was partial to women with large breasts, she said. In an instance at work, Thomas was so impressed that he asked one woman her bra size, McEwen recalled him telling her.

McEwen told ABC News (10-22): "He was constantly evaluating women in terms of whether they would be a good sex partner or not."

Thomas testimony:

"Senator [Biden] my attitude at work was in my work environment my staffs were almost invariably predominantly women. The senior person on my staff was a woman. I could not tolerate individuals making that environment uncomfortable or hostile. I could tolerate individuals who had to segregate their language or conduct in order to get along. The conduct had to be purged of offensive attitudes and I made a constant effort, and that was something that I was proud of and it was something I am sure the people who worked for me felt comfortable with and understood."

WP: In her Senate testimony, Hill, who worked with Thomas at two federal agencies, said that Thomas would make sexual comments to her at work, including references to scenes in hard-core pornographic films.

Thomas testimony:

"If I used that kind of grotesque language with one person it would seem to me that there would be traces of it throughout the employees who worked closely with me; there would be other individuals who heard it, or bits and pieces of it, or various levels of it."

SUPPRESSED EVIDENCE

There were five other individuals, including now McEwen, who had first-hand knowledge of Thomas's behavior as Hill described it, but none testified in the hearing.

NYT: Ms. McEwen has generally kept a low profile all these years, largely, she explains, out of respect for the wishes of Justice Thomas, who asked her to "take the same position toward him as his first wife had take" and not speak publicly about their relationship. A former prosecutor and judge, she is now retired.

WP: McEwen recalls writing Thomas a short note before the confirmation hearings, curious about what she should say if she were quizzed about their relationship. She said Thomas preferred that she would take "the same attitude of his first wife" who never talked publicly about their relationship.

WP: Angela Wright, who in 1984 worked as a public affairs director at the Equal Opportunity Employment Commission – which polices sexual harassment claims – during Thomas’s long tenure as chairman, shared similar accounts with Senate investigators. Once when walking into an EEOC seminar with Thomas, he asked her “What size are your breasts?” according to the transcript of her Senate interview.

WP: Her (Wright’s) story was corroborated by a former EEOC speechwriter, Rose Jourdain, who told Senate investigators that Wright had become increasingly uneasy around Thomas because of his comments about her appearance.

WP: Another woman, Sukari Hardnett, who worked as a special assistant to Thomas in 1985 and 1986, wrote in a letter to the Judiciary Committee: “If you were young, black, female and reasonably attractive, you knew full well you were being inspected and auditioned as a female” by Thomas.

Neither Wright, nor Rose Jourdain (her corroborator), nor Sukari Hardnett testified at the hearing. As he drew the hearing to a close, Biden lifted a subpoena for Wright to testify and instead transcripts of the interviews with Wright and her corroborator were simply entered into the record then the hearing was concluded, and Thomas was confirmed the next day.

Dowd: “For the written record Biden allowed negative accounts only from women who had worked for Thomas. He also ruled out testimony from women who simply had personal relationships with Thomas, and he did not respond to a note from McEwen – as a former US attorney who had once worked as a counsel for Biden’s committee – reminding him of her long relationship with Thomas.”

INTIMIDATING A WITNESS

A fourth woman with knowledge of Thomas’s behavior, Kaye Savage, was first named in a 1994 book *Strange Justice* by Jill Abramson and Jane Mayer. Savage was a close colleague of Thomas’s and Hill’s in the Reagan Administration. Savage was interviewed by Judiciary Committee staff after she contacted the committee, and a staffer made notes, but she was never called to testify. Her story did not become public until Abramson and Mayer obtained the staff notes and interviewed Savage, who told the authors of visiting Thomas’s apartment during the time Hill was working for Thomas and observing stacks of pornographic magazines and all of the walls of the apartment papered with centerfolds of large-breasted nude women.

From *Blinded by the Right*:

“The biggest problem raised by the *Strange Justice* authors for the Thomas camp was the testimony of yet another woman, Kaye Savage, who had not been heard from during the first round of hearings.”

"I called Mark Paoletta (a close Thomas friend and former associate White House counsel under Bush) at his Washington law office and discussed the Savage matter with him. Mark had been helping me on all other aspects of (my) review (of Strange Justice for The American Spectator) and we developed a plan for dealing with Savage. I needed to find out quickly who she was and what negative information might exist about her before confronting her and trying to force her into backing off the story she had told the Strange Justice authors. I was intent on doing to Savage what had been done to Anita Hill and Angela Wright during the Thomas hearings. Mark said he would call Clarence Thomas (then a sitting Justice) and see what he could find out."

"Within an hour or so that morning Mark phoned me back. He said he had posed my question about how to discredit Savage to Thomas, who knew I was at work on a review of the Mayer and Abramson book. (Personal note: I had personally told Thomas this when I met him at a Paoletta family event only days prior). Mark told me that Thomas had, in fact, some derogatory information on his former friend Savage; he passed it along to Mark so that Mark could give it to me. Quoting Thomas directly, Mark told me of unverified embarrassing personal information about Savage that Thomas claimed had been raised against her in a sealed court record of a divorce and child custody battle more than a decade ago. Thomas also told Mark where Savage worked after Mark related that I was eager to hunt her down as soon as possible. Surely skirting the bounds of judicial propriety to intimidate and smear yet another witness against him, Thomas was playing dirty and so was I."

After an excerpt of Blinded featuring the Savage story was published in TALK magazine in 2001, The NYT reported (6-27-01): "Reached at home in Washington last night, Ms. Savage said that Mr. Brock had tried to intimidate her but that he had not told her the source of the negative information. 'I didn't think to ask,' she said. But she said that she had shared the information about her divorce with few people and that Justice Thomas and Ms. Hill were 'primarily' those to whom she had confided. 'He either got it from Clarence or he got it from Anita, Ms. Savage said. 'and Anita's my friend.'"

(Personal note: Though I confronted Savage with the information in an effort to get her to recant, she never did, although I made it appear otherwise by journalistic sleight-of-hand involving a written statement Savage had given me under duress about her interviews with Mayer and Abramson in my Spectator review).

Frank Rich, NYT (12-29-94): "This time Mr. Brock's partisan desperation has led him to a tactic that is beyond the pale of even tabloid journalism and that would make any citizen think twice before speaking freely to any journalist: He tried to bully a source in Strange Justice, a one-time Hill and Thomas associate named Kaye Savage, to get her to sign a statement denying her own contribution to the book."

Jamin Raskin, a law professor and associate dean at American University in Washington, received a call seeking advice from Ms. Savage after her encounter with

Mr. Brock a few weeks ago: "She was distraught and said Brock was threatening to reveal damaging information about her from a divorce situation unless she agreed to retract everything she had said to the authors of Strange Justice, he said in an interview. 'I told her this is a clear violation of journalistic ethics and might be blackmail and that she shouldn't give in to it. She was beside herself because she had told the truth.'"

MORE CONFIRMATION ON PORNOGRAPHY

Blinded by the Right:

"I next set out to blow away the Mayer and Abramson story that Thomas had been a frequent customer of an X-rated video store near Dupont Circle, called Graffiti, where in the early 1980s he was alleged to have rented X-rated videos of the type that Hill claimed he had discussed with her in graphic terms. In the hearings Thomas had pointedly refused to answer questions about his personal use of pornography, other than to categorically deny that he had ever talked about porn with Hill (or with anyone in the workplace). The Graffiti story was another theretofore unknown piece of evidence for Hill's case..."

"Now that Mark had opened up a channel directly to Thomas, I asked him to find out for me whether Thomas had owned the video equipment needed to view movies at home in the early 1980s...Mark came back with a straightforward answer: Thomas not only had the video equipment in his apartment, but he also habitually rented pornographic movies from Graffiti during the years Anita Hill worked for him. Here was the proof that Senate investigators and reporters had been searching for during the hearings.

NYT: (Lillian McEwen) said he kept a stack of pornographic magazines, "frequented a store on Dupont Circle that catered to his needs."

CALLS FOR INVESTIGATION

Partial Transcript of CNN's Crossfire, 6-28-2001, after TALK published the excerpt from Blinded on Kaye Savage:

Eleanor Smeal, President of Feminist Majority Foundation: "I think there should be a hearing. Not only do I think there should be a hearing, I think that we can get to the bottom of it. There's other people now involved. There's Kaye Savage, who was, in fact, discredited by Brock. There are other authors who have written and were discredited by Brock. There is - essentially what Brock is saying they're very serious charges, they're not light charges. They are charges that he was fed information, and being fed this information, they discredited people wrongfully and knowingly. And this is serious.

"And let's face it, the Supreme Court these are life-time appointments. We are sitting here with a Supreme Court that elected this president by a five to four decision, but a Supreme Court that could reverse Roe v Wade and many many serious things affecting women..."

"Let's get right to - let's just get right to this, the problem with Clarence Thomas. There was a book that came out by two reputable reporters, Jill Abramson and Jane Mayer. And it collaborated - it confirmed a lot of what Anita Hill said. And we now know - of course we don't know this - it's alleged by Brock that he knew when he attacked that book and attacked it systematically that he was saying a lie. And so basically that is a reputable account that substantiates what she said..."

"Why don't you just bring it before a Senate judiciary committee and have Paoletta there, and not only that, why don't you investigate? I mean in fact there were - it's not just one person's word against another. He said that he was a regular participator in buying videos from a certain store. I mean why can't..."

Robert Novak: "Who said that? Who said that?"

Smeal: "Paoletta. Paoletta said it to Brock but what I'm saying is you can check it. I mean you don't have to..."

Novak: "He (Paoletta) denies it."

Smeal: "But that's a person's word. Is there no such thing as investigations? Is there no such thing as a hearing? I mean and why can't it be bipartisan? If in fact it's true that this man is just a liar, then you clear the name. But if it isn't we get at something also very serious. So - it's a serious allegation."