

Another mistake

by *The San Diego Union-Tribune*

President Bush's decision Monday to commute the 30-month prison sentence of Lewis "Scooter" Libby, former chief of staff for Vice President Dick Cheney, before Libby served a day behind bars created an immediate and understandable firestorm. Although the president left intact Libby's felony convictions and \$250,000 fine, critics immediately accused him of grossly misusing his powers to protect a former ally from the consequences of his criminal behavior. Given that the commutation apparently wasn't subject to a thorough review by the Justice Department or administration lawyers, this criticism is both fair and substantive. But while we think the decision to spare Libby any prison time was a mistake, a broader perspective is necessary. George W. Bush is far from the first president to use his powers to help a partisan ally. In 2000, for example, President Clinton gave former House Ways and Means Committee Chairman Dan Rostenkowski, D-Ill., a pardon for his two mail-fraud convictions on a wide variety of scams used to divert taxpayer money to his own pockets. And Bush's mistake is only the latest in a series of terrible decisions by everyone involved in this scandal.

Libby - and Cheney, too - were highly reckless in leaking the name of CIA official Valerie Plame as part of a payback scheme aimed at her husband, an administration critic. Libby's decision to lie to and obstruct investigators was contemptible. But special prosecutor Patrick Fitzgerald's handling of the case was troubling as well. His zealotry in using subpoena powers to force members of the Washington press corps to act as de facto extensions of law enforcement set a horrible precedent. What makes the aggressiveness of his two-year investigation even more objectionable is that he likely knew early on that Plame wasn't actually a covert agent - and thus the leaking of her name wasn't a crime.

Then it was federal Judge Reggie B. Walton's turn to embarrass himself. In mocking a dozen law professors who had written a brief in support of Libby and in ordering Libby be sent to jail pending his appeal, Walton came across more as a left-wing avenging angel than a thoughtful steward of the law.

Now the president has continued this tragicomedy of errors by sparing Libby from the most severe consequences of his stonewalling.

We suspect our perspective will anger both Republicans who consider Libby a martyr in a media witch hunt and wanted a full pardon for him, and Democrats who see the commuting of his sentence as the latest corrupt act by an execrable president who lied us into war. So be it. On the facts alone - as opposed to the partisan spin - the Plame-Libby scandal is one in which practically no one comes out looking good.

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