



Skyline High Prom Photo 1978
Marc Jenson with his date who would later marry the man who put him behind bars.

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The Shurtleff Payback Factor

By Lynn Packer
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A Skyline High senior prom and, twenty years later, a class reunion may become key factors in a conflict of interest case against former Utah Attorney General Mark Shurtleff.

In 1978 Marc Jenson, now serving time for securities fraud in the Davis County Jail, dated Melissa “Missy” Marler, taking her to the senior prom.

Fast forward twenty years to Skyline High’s 1998 class reunion. Jenson is perhaps the Class of ‘78’s biggest financial achiever and well on his way to becoming a multi-millionaire. His former girl friend, now going by M’Liss, shows up with her husband who is a rising political star in his own right—Mark Shurtleff. At the reunion M’liss approached Jenson and introduced him to her husband. It’s the beginning of a relationship between the two men that ended up with Shurtleff’s Attorney General’s office putting Jenson behind bars and Jenson’s testimony helping prompt an FBI criminal investigation into Shurtleff and his successor John Swallow.

“Everyone for years talked about how rich I was,” Jenson said during a recent interview at Davis County Jail. “I think Mark Shurtleff heard that for years from Missy.” “But when he met with me a major reason he went to reunion was to have Missy introduce me to him so he could, like, get a bunch of money from me.”

In 1998 Shurtleff was a Utah Assistant Attorney General and, late in the year, was elected a Salt Lake County commissioner. He used his wife’s 20-year reunion at the end of July to network and raise money.

“Missy came up to me and with some pleasantries,” Jenson said. “So nice to see you, how are you, please meet my husband Mark Shurtleff.” Jenson said Shurtleff “gave me a spiel” for about ten or fifteen minutes, telling Jenson he has heard about him for years, and that he was running for office. And he asked for a donation.

“Did you give him one,” Jenson was asked?

“No,” he replied. “It was just outside of my awareness. I was not a political donor at any level. It was something I did not do.”

Jenson’s attorney Helen Redd believes her client’s failure to donate is a “huge part of the story” of Shurtleff initiating Jenson’s criminal prosecution seven years after the reunion, after Shurtleff had been elected attorney general. Redd says it raises a significant conflict-of-interest question.

“Whatever Mark Shurtleff did to me,” Jenson said, “and he did a lot, has been smoldering.” “The start was 1978 before even knew me, at that senior prom, and has been smoldering in him ever since he made his pitch to me at the 20 year reunion and I just didn’t do anything.” Jenson believes if he had become a Shurtleff campaign contributor he never would have been prosecuted.

Shurtleff provided a statement for this report but declined responding specifically to Jenson’s claim that Shurtleff had a conflict of interest and was trying to get even. “I am not going to respond to anything Marc Jenson says because he is a liar and does not tell the truth, Shurtleff says. “And he vowed revenge against me. He does not know the meaning of the truth, that’s Marc Jenson,, that’s the life he has lived, that’s why he’s in prison and that’s why every story he tells about me or anybody else is a lie.”

Jenson’s Shurtleff-was-out-to-get-me theory for not making campaign donations could easily be dismissed as the ranting of a paranoid convict desperate to get out of jail. But he and his attorneys tick off the series of facts they say support their allegations.

- In 1998 Jenson declined contributing to Shurtleff’s county commission campaign.
- In 2005 Mark Shurtleff personally opened the securities fraud case against Jenson. Such cases are usually initiated by Utah’s Division of Securities and referred to the Attorney General’s office
- In 2006 Jenson and his legal team met with Shurtleff for breakfast to discuss the ongoing case without AG prosecutors assigned to the case being present. The meeting was arranged by Tim “Fix-It Man” Lawson. (See *PC* story August 19.)
- Jenson just this week also alleges that Shurtleff was personally, continually involved in the plea bargaining in late 2007 and early 2008, sometimes through Lawson and sometimes direct, bypassing the assigned prosecutors..
- When talks bogged down Jenson claims to have met with Shurtleff alone, face-to-face, a meeting he said resulted in the AG’s office offering a more favorable plea-in-abeyance deal.
- After the plea bargain and Jenson entered a plea in abeyance Shurtleff availed himself of Jenson’s largesse of all-expensive paid stays at a Pelican Hills villa in Southern California.

Jenson’s attorneys argue that instead of being deeply immersed in every stage of the AG’s Jenson prosecution Shurtleff should have had nothing to do with the case. They believe that Shurtleff’s marrying Jenson’s girl friend then, through her, failing to get a campaign contribution should have been enough for Shurtleff to keep out of the matter and, perhaps, his entire office as well, instead referring anything involving Jenson to an outside prosecutor.

Ethical guidelines dictate that anyone in the AG’s office who is conflicted be “screened off” using an ethical barrier, a so-called Chinese Wall to make sure they don’t taint a case.

A Utah State Bar opinion outlined the screening requirement for the AG’s office:

In order to guard most effectively against disqualification motions, it would be “prudent” for the attorneys with potentially conflicting responsibilities to be entirely screened from one another, not sharing access to the same confidential files (see Rule 1.6) or operating so that one attorney has “managerial authority” or “supervisory authority” over the other. However, even if no formal screening system is put in place, government attorneys comply with the ethical rules if they ensure they do not “participate” in any matter for which they have a personal conflict of interest.



Is Jenson in jail because Shurtleff sought revenge? Or is Jenson lying to get even with Shurtleff?

article is something that clearly falls in between. That’s where readers and others will have to decide whether something developed that a reasonable person would think recusal appropriate.”

One of Jenson’s attorneys, Marcus Mumford, said he learned from internal documents that Jenson’s prosecution was out of the ordinary from the outset. “It was initiated by the AG

A University of Utah law professor and a former federal judge says the rules on conflict of interest are not one hundred per cent clear. Paul Cassell says they “generally focus on when there is an appearance of impropriety such that a reasonable person would wonder about the unbiased nature of the decision maker.”

Cassell did not want to comment directly on the Jenson/Shurtleff matter because he is not familiar with all the facts. “Without commenting on what may or may not have happened at Skyline High School, I don’t think you can just go from the fact that someone requested a donation and did not get one that that would automatically by itself create a recusal situation,” he said.

Cassell described two polar opposite extremes. in At one extreme is a person who receives a mass mailing for campaign donations, does not contribute, is later charged by the person who asked for the money and concludes the person is mad.

At the other extreme is a scenario where “a day before a criminal decision is made and someone is asking for \$100,000 and needs to keep the campaign alive and a heated discussion ensues and the person is turned down and the next day he files a criminal charge.” “In that situation we could agree that it creates an appearance of impropriety and there ought to have been a recusal,” Cassell says. “I’ve given you, in classic law professor style, two polar examples and what you have in your

himself, who we understand to be Mark Shurtleff.” “What we found is that key events in the prosecution of the case correspond with political donations made by a Ricke White to Shurtleff in the name of White’s wife,” Mumford said. “White claimed at the time that Mr. Jenson owed him money—something that the State has since acknowledges was not the case. White threatened Mr. Jenson that if he did not pay then White would have his friend Mr. Shurtleff bring criminal charges for no other reason than it would give White leverage over Mr. Jenson.” Mumford says he infers from facts and admissions “that this was a misbegotten, personal and politically motivated prosecution.”

Note: As indicated in the story Shurtleff declined comment prior to publication. But afterward he sent a message saying, “Not even the tabloid City Weekly is that sleazy. My wife is a private citizen and is very upset with your publishing that photo, caption & lies about her. She is considering an invasion of privacy and false light legal action.”