

## Feds shift Perata probe from S.F. to Sacramento

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**(03-04) 19:14 PST San Francisco** -- Federal prosecutors in San Francisco have decided not to file corruption charges against former state Senate leader Don Perata and his son after investigating them for five years, but Sacramento prosecutors now are looking into the case.

Federal prosecutors in Sacramento said they began reviewing the Perata case last fall at the request of the FBI.

The investigation into Perata, an Oakland Democrat who served as president pro tem of the state Senate from 2004 to 2008, involved an extensive look at his financial and political dealings to determine whether he had obtained kickbacks in return for actions he performed as a lawmaker.

Attorneys for Perata and his son Nick complained over the past two weeks to Congress and the U.S. Justice Department that the move by Sacramento federal prosecutors is an illegal attempt to sidestep the statute of limitations in the case.

The lawyers claimed that after a series of meetings, they were told by David Anderson, the No. 2 prosecutor in the U.S. attorney's office in San Francisco, that he would not seek to indict Perata, his son and other targets of the investigation.

After Anderson decided against a prosecution, "the case pops up 90 miles down the road in Sacramento," Perata's lawyer, George O'Connell, said in an interview. "... It is a principle of prosecution that if a prosecutor believes a case cannot be proven beyond a reasonable doubt, that's the end of it."

O'Connell and Elliot Peters, who represents Nick Perata, said that on six different occasions, they agreed to grant the government additional time, beyond the statute of limitations, to determine whether charges should be filed. They said they would never have agreed to those extensions if they had known that the Justice Department's Sacramento office would try to pick up the case after the San Francisco prosecutors dropped it.

Peters said he believes the legal deadline for filing charges would have passed last summer or fall if the defense attorneys had not agreed to extensions.

### Protests to u.s. officials

In a letter Feb. 26 to new U.S. Attorney General Eric Holder, Peters asked the Justice Department to investigate "the fairness and propriety" of the decision to continue investigating the former lawmaker. "The government should not play three-card monte or hide the ball with the statutory or constitutional

rights of citizens," Peters wrote.

O'Connell raised similar issues in a letter Wednesday to Rep. John Conyers, D-Mich., chair of the House Judiciary Committee, asking for "an inquiry into the grossly unfair and highly questionable conduct" relating to Sacramento prosecutors' decision to resurrect the case.

O'Connell said the sixth deadline extension was granted by defense attorneys to San Francisco prosecutors after they received assurances that they would be given time to present their clients' position before any charging decision was made.

Former Sen. Perata's spokesman, Jason Kinney, described the Sacramento office's entry into the case as "the hijacking of the case by a Bush appointee in the waning days of the Bush administration" in a desperate bid to keep a politically motivated case alive.

Kinney's assertion was rejected by Lawrence Brown, the acting U.S. attorney in Sacramento.

"Last fall, the FBI requested that our office review the investigation of Don Perata and his associates," Brown said. "Our office has undertaken and continues to undertake such a review. This action was not done at the instigation of McGregor Scott, who was the U.S. attorney at that time" and an appointee of President Bush. Scott left the office, where he had been since 2003, in January.

Brown added that the agreements extending the legal deadline for prosecution "were between defense counsel and the United States and were not specifically limited to the U.S. attorney's office in San Francisco." He declined to say how much more time his office might have to press charges, and he would not make any other comment about the case's status.

### **Teacher, then politician**

Perata is a former Alameda schoolteacher who rose from the Alameda County Board of Supervisors to the state Senate. There he became a prodigious political fundraiser - and for a time, was among California's most powerful Democrats. He left office last year because of term limits.

FBI agents had been investigating a series of complicated financial transactions involving Perata to see if he was the beneficiary of illegal kickbacks from family members, friends or other associates.

The investigation apparently started in 2003 after FBI agents began inquiring into his association with Lily Hu, a former Perata aide who has become a lobbyist for some of the city of Oakland's biggest real estate interests. During the course of the probe, prosecutors interviewed scores of witnesses and pored over thousands of documents.

Just days before Christmas 2004, FBI agents raided Perata's Oakland home and the house of his son, carting away computers and boxes and bags of documents, especially those related to their dealings with Hu.

Perata, his son, Hu and other Perata associates consistently have said they did not commit any crimes.

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