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# Racial Motive Alleged in a Justice Dept. Decision

By CHARLIE SAVAGE

WASHINGTON — A former Justice Department lawyer hired during the Bush administration alleged on Tuesday that the department scaled down a voter-intimidation case against the New Black Panther Party last year because his former colleagues do not want to protect white people's civil rights.

In testimony before the Commission on Civil Rights, J. Christian Adams, who recently resigned from a voting rights position in the Justice Department's civil rights division, decried the decision by department superiors in May 2009.

"We abetted wrongdoing and abandoned law-abiding citizens," Mr. Adams said of the decision to reduce the scope of the New Black Panthers case, which he had helped to develop.

The testimony by Mr. Adams brought new attention to a case that has been used as political ammunition against the Obama administration by some conservative media outlets seeking to flip the script on portrayals of the Bush administration as having "politicized" the Justice Department.

The case arose after two members of the New Black Panther Party stood outside a polling place in a majority-black precinct in Philadelphia on Election Day in 2008. A video of the men, posted online, showed them dressed in paramilitary clothing, and one carried a billy club.

In January 2009, less than two weeks before the Bush administration left office, the civil rights division invoked a rarely used section of the Voting Rights Act to file a civil lawsuit alleging voter intimidation by both men, the party chairman and the party.

In April 2009, the division seemed to win the case by default because the New Black Panthers failed to show up in court. But the following month, a longtime Justice official, Loretta King — who was then the acting head of the division — decided to reduce the scope of the case.

The department dropped the charges against the party, its chairman and the man who was not carrying a club. It pressed forward with the lawsuit against the man with the club, obtaining an injunction that forbids him from carrying a weapon near an open polling place in Philadelphia through 2012.

The case became a cause célèbre in the conservative media world, and the Civil Rights Commission opened an investigation. The eight-member panel, which has the power to issue subpoenas and issue reports, is controlled by a six-member conservative bloc appointed during the Bush administration.

In testimony before the panel in May, Tom Perez, who became the assistant attorney general for the civil rights division in October 2009, said that “reasonable minds can differ” about the case, but that the acting supervisors had concluded that the case had been over-charged.

Mr. Perez said there was insufficient evidence that the party was responsible for the incident. He also noted that the voter intimidation provision is rarely used, and pointed to similar incidents during the Bush years in which minorities were the alleged victims but the division did not file such a lawsuit.

“Although none of the defendants responded to the complaint, the department had a continuing legal and ethical obligation to ensure that any relief sought was consistent with the law and supported by the evidence,” Mr. Perez said.

On Tuesday, Mr. Adams argued that the New Black Panther Party case was solid. He also portrayed the civil rights division as a place where many officials are hostile to the idea of using civil rights laws to go after black perpetrators with white victims.

Tracy Schmalzer, a Justice Department spokeswoman, said the department enforces voter intimidation laws “based on the merits, not the race, gender or ethnicity of any party involved.”

The Obama administration took office amid widespread allegations that the Bush administration had politicized the civil rights division. Reports by the Government Accountability Office and the Justice Department’s inspector general found that enforcement of certain anti-discrimination laws dropped significantly, and that political appointees systematically steered career jobs to conservatives in violation of civil service laws.

Mr. Adams, a Republican who had previously worked for South Carolina’s secretary of state, was hired in 2005. But he insisted on Tuesday that his political beliefs had had no bearing

on his work.

The investigation has divided the commission. In a statement on Tuesday, one of its two Democratic members, Michael Yaki, called it “incredibly shallow, expensive, and partisan” and a “one-sided farce.”

And one of its six conservatives, Abigail Thernstrom, wrote an article published Tuesday in National Review dismissing the New Black Panthers incident as “small potatoes” and warning that the commission’s “overblown attack threatens to undermine the credibility” of conservative criticism of the Justice Department, led by Attorney General Eric H. Holder Jr.

But Commissioner Todd Gaziano, who is a fellow at the conservative Heritage Foundation, signaled that the other five members of the conservative bloc intend to press forward. And Mr. Adams offered to identify other former officials whom the commission could subpoena.