I harbored no personal desire to see I. Lewis "Scooter" Libby spend a long time in prison for his perjury and obstruction-of-justice convictions. People who know him tell me he is a thoughtful and interesting man, and I have no reason to doubt them.

Yet when I learned that President Bush had commuted Libby's 30-month sentence, I was enraged although not surprised. Rage should not be a standard response to political events (though avoiding it has gotten harder in recent years), so I had to ask if my anger was justified. Here's the case for getting mad and staying mad.

The core point is that "equal justice under law" either means something or it doesn't. In this case, all the facts we know tell us that Libby received far more than equal justice, as evidenced by the irregular way his commutation was handled.

President Bush's rationale for commuting Libby's sentence was based precisely on arguments that have been, as the New York Times reported Wednesday, "routinely and strenuously opposed by his own Justice Department."

"Given the administration's tough stand on sentencing," the Times's Adam Liptak wrote, "the president's arguments left experts in sentencing law scratching their heads."

The point is that in a democracy, no one, regardless of office or status, is above the law.
After you've finished your head-scratching, is it possible to avoid concluding that this was a one-time-only action rooted not in law but in politics and favoritism for an aide who loyally misled the prosecution in a case that implicated top figures of Bush's own administration?

Bush said Libby's sentence was excessive. But as Ron Fournier of the Associated Press reported, "the 2 1/2 years handed Libby was much like the sentences given others convicted in obstruction cases."

In fairness, Fournier also pointed to a certain inconsistency on the issue of perjury on the Democratic side (Bill Clinton and all that). Ed Morrissey, a staunch conservative who runs the influential Captain's Quarters blog, also went after the Clintons, but Morrissey's own sense of consistency wouldn't allow him to embrace Bush's decision. "I'm not convinced that the administration should have intervened at all," Morrissey wrote. "The sentence fit within the sentencing guidelines championed by Republicans for years as a bulwark against soft-on-crime federal judges, even if it was on the long end of the guidelines by some interpretations. The underlying crimes go to the heart of the rule of law, and those who commit perjury and obstruction should go to prison."

If Bush had been confident that the law was on his side, he might have sought input on the decision from his Justice Department. He did no such thing.

As Michael Abramowitz reported in Tuesday's Post: "For the first time in his presidency, Bush commuted a sentence without running requests through lawyers at the Justice Department, White House officials said. He also did not ask the chief prosecutor in the case, Patrick J. Fitzgerald, for his input, as routinely happens in cases routed through the Justice Department's pardon attorney." Again: This was a one-time-only ticket for one guy.

Bush purported to be seeking a "third way" (forgive me, Tony Blair) between an outright pardon and allowing the law to follow its course. "I respect the jury's verdict," the president said. "But I have concluded that the prison sentence given to Mr. Libby is excessive. . . . The consequences of his felony conviction on his former life as a lawyer, public servant and private citizen will be long-lasting."

But if Bush meant that, he'd declare that a full pardon for Libby is out of the question. The day after he commuted Libby's sentence, Bush explicitly refused to do so. Moving back to stonewalling, the president said, "As to the future, I rule nothing in or nothing out."

Notice the pattern: When the heat was on in the CIA leak case, Bush issued a strong pledge to fire anybody involved in leaking. He didn't. When Libby was indicted, Bush ducked comment until Libby was at prison's door. Now, by keeping Libby free, Bush can
conveniently postpone a full pardon until after the 2008 election. In the meantime, Libby has no incentive to tell prosecutors anything new about what happened in this case. As liberal blogs have noted, since he was not pardoned outright, he can use the pending appeal of his conviction to avoid testifying before Congress.

It's an airtight coverup made possible by the administration's willingness to bend the law. We spent months talking about Clinton's pardon of the fugitive financier Marc Rich. This commutation is an even greater outrage because it involves the administration taking steps to slip accountability for its own actions. Are we just going to let this one go by?

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