



## Pettitte's testimony big factor in case

### Clemens indicted

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By Erik Boland, Newsday

NEW YORK -- Andy Pettitte's comments regarding Rogers Clemens' indictment by a federal grand jury left little to misremember.

"I've got nothing to say about that," Pettitte said before Friday night's game. "If you want to talk about me, I'll be more than happy to; my injuries or whatever."

Pettitte is seen as a potential linchpin in the obstruction of Congress and perjury charges against Clemens, with a former leading member of the House committee that held a hearing in February 2008 on illegal performance-enhancing substances in baseball saying as much Friday.

Former Rep. Tom Davis, a Republican from Virginia, told ESPNNewYork.com that Pettitte's sworn deposition corroborating much of Brian McNamee's testimony likely was a significant factor in the indictment.

McNamee, a former trainer of Clemens' and Pettitte's, said he supplied Clemens with steroids and HGH.

Clemens has consistently denied the charges.

At the 2008 hearing, Clemens uttered his now infamous "I think he misremembers," when lawmakers presented him with the part of Pettitte's affidavit where the left-hander recounted a conversation in which Clemens discussed using HGH.

"If it was just Roger versus McNamee, it's a different matchup," Davis said. "Without Pettitte, neither McNamee nor Clemens was that articulate or credible."

Should the case get to trial, Pettitte is sure to be called to the stand.

That is reason alone, said one Manhattan-based defense attorney who has represented his share of notable clients -- including Peter Gotti in his RICO case six years ago -- for Pettitte not to discuss Clemens' indictment in the media.

"He's a potential witness here," Joseph DiBenedetto said late Friday afternoon in a telephone interview.

"If I was Andy Pettitte's attorney I would advise him to stay away from any comments about this case."

DiBenedetto said anything Pettitte says now could be brought up again in cross examination.

Having already admitted that he used HGH -- given to him by McNamee, he said, to accelerate his recovery from injury -- and being on record with the affidavit, Pettitte has nothing to gain by publicly commenting now on Clemens.

"Anytime you represent a potential witness, especially someone who can be quoted regularly in the media, it's best for them not to answer questions because those are statements that can be read back to him on the stand and he can be cross examined on them," DiBenedetto said.

"You never know what you're going to be asked on cross examination so you're better off not putting yourself in the position where a defense attorney can ask you something that might trip you up."

Pettitte apparently received the same advice.

Asked if he had specifically been told not to discuss Clemens' indictment, Pettitte briefly paused.

"I think everybody can figure that out, you know?" Pettitte said. "It's pretty simple. It's just ... it's ... I don't have any comment on it."

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