



Saturday, May 2, 2009

Two Inkster cops want perjury charges dismissed

They claim they lied in a case with approval from a judge and an assistant prosecutor

Doug Guthrie / The Detroit News

Detroit -- Two Inkster police officers want perjury charges against them dismissed because they claim they were misled by their co-defendants, a Wayne County Circuit Court judge and the county's former top drug prosecutor.

Documents filed in 36th District Court acknowledge the cops and a witness lied under oath in a 2005 drug case, but claim they were "entrapped" by bad advice from now retired Wayne County Assistant Prosecutor Karen Plants with consent from also now retired Wayne County Circuit Judge Mary Waterstone.

Waterstone was charged March 25 with official misconduct by Michigan Attorney General Mike Cox, a felony punishable by up to five years in prison. Plants, Rechtzigel and McArthur were charged with misconduct and obstruction of justice. The charges carry possible life sentences.

The allegations by the cops this week prompted District Judge Paula Humphries to postpone a preliminary hearing for the four this week. Instead, she'll consider the officers' request for dismissal on May 29.

The officers said false testimony was given to protect the identity and life of a confidential informant police had paid to set up a drug bust. The bust snared the owner of an Inkster bar and a shipment of high quality cocaine.

But reviews of the case by legal authorities including the Michigan Supreme Court, the Court of Appeals and the Michigan Attorney Grievance Commission all found misconduct. The Supreme Court ordered a second trial, which ended when the bar owner, Alexander Aceval pleaded guilty and went to prison. But, his lawyer has kept the issue alive with appeals and complaints to the Grievance Commission.

The officers claim the law protects people who follow advice from government officials.

Rechtzigel's lawyer David Griem wrote that the officers never intended to break the law, and they lied in court because they were instructed to do so.

According to an attorney general investigation, the deception by Plants started on the day of the bust with advice to the officers preparing warrants to justify the arrests. Plants also had three unusual private meetings with the judge to explain the false testimony, and according to transcripts of the meetings, Waterstone consented to the lies.

"The great majority of these facts are undisputed by defendant Karen Plants and defendant Mary Waterstone, the government agents on whom both (Rechtzigel) and McArthur relied," Griem wrote

Included in the request for a hearing was a letter Plants sent back in 2006 to explain her actions to the Michigan Attorney Grievance Commission. The commission issued a finding of misconduct against Plants a year ago and has recommended professional punishment by the Attorney Discipline Board.

"If faced with the same situation today, I would handle the case differently," Plants wrote. "I realize that allowing false statements is wrong."

The pleadings by the officers also could bring into question Prosecutor Kym Worthy's connection to the case.

Worthy wrote a letter last year to the Grievance Commission explaining why she took no action against the judge and her assistant while pursuing perjury charges against former Detroit Mayor Kwame Kilpatrick.

Worthy said she was not involved in the case earlier and made no decisions to keep perjured testimony a secret.

But, in her letter, Worthy continued to support Plants who took early retirement in November. She said Plants' claim is that exceptions to truthful testimony in court can be allowed to protect confidential informants.

"While her conduct in this case certainly must be evaluated by the Commission for issues of misconduct, based upon my knowledge of the issue, I believe Ms. Plants did act ethically in alerting the judge and her supervisor of the officer's false statement."

dguthrie@detnews.com (313) 222-2548

Find this article at:

<http://www.detnews.com/article/20090502/METRO01/905020334/Two-Inkster-cops-want-perjury-charges-dismissed>

Check the box to include the list of links referenced in the article.

