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Judge, prosecutor, cops charged with misconduct in drug case

Doug Guthrie and Santiago Esparza / The Detroit News

DETROIT -- Two men remain in prison for a cocaine bust, despite felony charges leveled Tuesday against the judge, prosecutor and police officers who sent them there.

Retired Wayne Circuit Judge Mary Waterstone, former Assistant Wayne County Prosecutor Karen Plants and two Inkster Police officers were arraigned by a 36th District magistrate on misconduct charges for allegedly hiding the fact that a witness for the prosecution was a paid police informant who helped police set up the bust.

Plants and the investigators on the case, Inkster Police Sgt. Scott Rechtzigel and Officer Robert McArthur, face possible life sentences on perjury charges. All of the defendants were charged Tuesday with felony misconduct, which carries a maximum sentence of five years in prison.

"No one could be pleased by allegations of public corruption, but on the other hand, these individuals need to be prosecuted," said David Moffitt, a lawyer representing one of the men who pleaded guilty after facing two trials allegedly tainted by false testimony. "A strong message needs to be sent that no one is above the law."

The case began in March 2005 with a bust in Inkster in which officers seized more than 100 pounds of high-quality cocaine. It ended after two disputed trials with the imprisonment of bar owner Alexander Aceval, 42, and truck driver Ricardo Pena, 50. Aceval is serving a 10-15 year sentence. Pena, who eventually testified against Aceval, is serving 5-15.

"They thought he was a mega-dealer and they were willing to do whatever it took to convict him," said Aceval's first trial lawyer, James Feinberg. "A bust this size normally goes to federal court, but she (Plants) was desperate to keep this case, so desperate that she was willing to cheat to get a conviction."

Appeals to higher courts on behalf of the men have found possible official misconduct in the trial, but the decision about whether the men deserve a new trial or to be freed will be left to a final appeal being prepared for the Michigan Supreme Court, Moffitt said.

Defense lawyers said it's been a difficult fight.

Worthy defended prosecutor

In June 2006, Wayne County Prosecutor Kym Worthy defended her assistant when a Detroit News article first pointed out problems with the case. Worthy said Plants acted within Michigan Rules of Professional Conduct for lawyers and described Plants as being "known throughout the criminal justice system as a lawyer of high integrity and competence."

Worthy was later criticized for not investigating claims of perjury against one of her own assistants while doggedly pursuing perjury charges against then-Mayor Kwame Kilpatrick and his ex-chief of staff, Christine Beatty.

When a State Attorney Grievance Commission investigation of Plants' actions in the trial resulted last April in a formal complaint citing misconduct, Worthy suspended Plants with pay and requested an independent prosecutor to consider criminal charges. Attorney General Mike Cox took the case after four county prosecutors turned it down as too costly and time-consuming.

The State Attorney Discipline Board held a hearing last month and is expected next month to decide if Plants should lose her law license or be disciplined.

Plants, 46, left her job in November, choosing to take early retirement. Waterstone, 69, retired from the bench in January 2007.

Transcripts of the original trial detail closed-door meetings where Plants and the officers tell Waterstone about manipulating testimony to cover the identity of the informant. They told the judge the man's life was threatened.

"In one in-camera session, they told the judge about the perjury and she (Waterstone) asked, 'If I don't allow the perjury, the witness will be killed or harmed?' They assured her he would. She should have known better because she was an experienced judge and lawyer," Feinberg said.

Waterstone also signed orders banning the defendants' attorneys from access to the informant's cellular telephone records, because they would have showed he talked to one of the officers. Plants is accused of never correcting the testimony of the officers. Although the judge was informed of the perjury, the attorneys for the defendants arrested in the bust were not told, according to the Attorney General's investigative report obtained by The News on Tuesday.

Curt Benson, a professor at Cooley School of Law, said that if the charges are true, "This is wrong on so many levels that it is astonishing. Everyone has a constitutional right to confront their accusers. For the judge to sanction perjury to prevent a fair cross examination is an outrageously obvious constitutional and criminal violation."

'It is a sad day'

Worthy's office issued a statement after Tuesday's arraignment: "Our system of justice is based upon the presumption of innocence and the right to a fair trial. I sincerely hope that these defendants will be afforded the same rights as others."

Rechtzigel is a 14-year veteran of the Inkster Police Department and McArthur has been on the force for 19 years.

Inkster Police Chief Gregory Gaskin issued a statement Tuesday: "It is unfortunate that these officers have been charged. We have cooperated fully with the investigation and feel confident that the justice system will get to the full circumstances in this matter."

The cops and former judge and prosecutor stood Tuesday afternoon before Magistrate Sidney Barthwell Jr., flanked by six defense lawyers and First Assistant Attorney General William Rollstin. Barthwell read the charges, five counts of misconduct and one count of conspiring to commit perjury against Plants, three counts of misconduct against Waterstone. The officers face two counts each of conspiring to commit perjury and one count each of misconduct.

"It is a sad day because law enforcement professionals are involved as defendants," said Cox, whose office brought the charges. "Nonetheless, this case is important because the allegations here undermine the credibility of our justice system."

All were allowed to go free on \$25,000 personal bonds, but ordered to return to the court on April 28 for a preliminary examination of the charges against them.

One of Waterstone's lawyers, Todd Flood, said he planned to file motions pointing out possible conflicts for the court's judges who might be assigned to the case. Barthwell stated for the record on Tuesday that he was familiar with some of the defendants both professionally and personally.

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