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A sad, solid day for justice

BY BRIAN DICKERSON
FREE PRESS COLUMNIST

Something sad and important and possibly unprecedented in Michigan's judicial history took place this past week in District Judge David Robinson Jr.'s Detroit courtroom. But it was handled with such quiet professionalism, and with so little grandstanding on Robinson's part, that most of us scarcely noticed.

The unfortunate event in question was Robinson's ruling that retired Wayne County Circuit Judge Mary Waterstone must stand trial on charges she abetted perjury in a 2005 narcotics trial.

I say unfortunate not because I question Robinson's good judgment -- to the contrary, I applaud it -- but because even the allegation that a judge has conspired to deceive jurors in a criminal case shakes our society of laws to its foundation.

And as far as anyone can tell, Waterstone's prosecution marks the first time a Michigan judge has faced criminal charges for concealing evidence.

Also bound over for trial in the case were former Wayne County assistant prosecutor Karen Plants and former Inkster police officers Scott Rechtzigel and Robert McArthur, who are accused of conspiring to hide the fact that witness Chad Povish was a paid police informant in the 2005 cocaine case.

Plants and the officers are accused of falsely testifying that they didn't know Povish before the arrests of the defendant on trial; Waterstone is charged with four counts of misconduct for allowing the perjured testimony and concealing the prosecution's deception from jurors.

No wasted motion

The most striking thing about the incendiary case is that it did not turn into the sort of epic TV spectacle that is so often generated when charges are brought against a celebrity or elected official. Judges, prosecutors and defense attorneys often share an interest in prolonging their moment in the spotlight, and it's the rare jurist who can keep a highly publicized hearing moving briskly forward. But Robinson did just that, corralling the capable lawyers representing each of the four defendants and rejecting efforts to extend Waterstone's hearing with expert testimony about her ethical obligations in the narcotics trial.

[Page 2 of 2]

"There is no need for specialized expertise," Robinson said, observing that any judge could readily understand the court's duty to prevent perjured testimony.

There was also the potential that Robinson might over-identify with his retired colleague's conundrum in the 2005 trial, which Waterstone's lawyer said left her torn between derailing a costly prosecution and endangering an informant's life.

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The Judicial Tenure Commission, which previously reviewed Waterstone's role in the case, had given Robinson cover to dismiss the criminal charges by ruling that Waterstone's misconduct merited only a reprimand.

But Robinson eschewed the easy way out, observing that the allegations against his former colleague went to the core of the court's credibility.

"Our whole system is aimed at one thing -- letting those people who sit in the jury box see the facts," he told Waterstone in binding her over for trial. "We have the prosecutor of the case walk into your office and tell you we have perjury here, and you don't tell the other side. You don't tell the jury."

Credibility at issue

Waterstone and her fellow defendants have not been convicted of anything, and may never be. The case against them is based largely on the testimony of informant Povish, who says he received only a fraction of the \$100,000 he was promised for his testimony.

"Some jury or fact finder may not choose to believe Mr. Povish at all," Robinson conceded.

But what Robinson decreed, quietly but firmly, is that allegations like these are much too serious to be swept under the rug. And in making that declaration, he struck a mournful blow for justice.

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