

Ex-judge can be tried in perjury, court says

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The state attorney general can prosecute former Wayne County Circuit Judge Mary Waterstone for allowing perjury in a major drug trial -- even though the office had earlier defended her in a civil lawsuit based on her actions during the trial, the Michigan Supreme Court said in an order released Monday.

In a one-page order, a majority of the court said the attorney general can proceed with a criminal case because of its "unique constitutional and statutory status."

But Justice Robert Young filed his "vigorous dissent," saying the order "ignored and trampled on" a basic legal tenet that a client should have a lawyer's undivided loyalty.

"In sum, it turns the shield of attorney loyalty into a sword for the prosecution," Young said in his 11-page dissent.

Justice Maura Corrigan did not take part in the decision because she said she may be called as a witness for Waterstone.

The order clears the way -- 14 months after they were arraigned -- for a preliminary examination on charges that a judge, a top-ranking prosecutor and two narcotics officers used perjured testimony to hide an informant's identity a large cocaine seizure.

Waterstone's lawyer, Gerald Evelyn, said the now-retired judge "is just devastated after a long and unblemished career."

The charges against Waterstone, Karen Plants -- the former head of the Wayne County Prosecutor's drug unit -- and Inkster police Sgt. Scott Rehtzigel and Officer Robert McArthur stem from a 2005 drug trial against Ricardo Pena and Alexander Aceval.

At that trial, the police testified that they didn't know in advance about a witness' role in the drug deal. In fact, he was a paid informant.

Plants privately told Waterstone of the false testimony, and got her to agree it was necessary to protect the witness's safety.

After the trial, the Attorney General's Office successfully defended Waterstone in federal court when Aceval sued her.

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Abstract (Document Summary)

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