

Observer

Five Things to Know Before the Impending Verdict In *The United States of America v. John Wiley Price, et al.*

BY STEPHEN YOUNG

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John Wiley Price heads into Dallas' federal courthouse last week.

Brian Maschino

Monday morning marks the beginning of the fourth day of jury deliberations in the federal corruption case against Dallas County Commissioner John Wiley Price and his executive assistant, Dapheny Fain. Price is accused of accepting about \$1 million in cash and other benefits in exchange for confidential information and influence, failing to pay taxes on those benefits and mail fraud. Fain is accused of lying to FBI agents investigating Price.

Here are five things to keep in mind in advance of a verdict (or the jury announcing that it can't make a decision):

Marlo Cadeddu goes after FBI forensic accountant David Garcia. – Early in the trial, federal prosecutors controlled the narrative. In reading the 100-plus page indictment of Price and laying out the litany of evidence against the commissioner during a lengthy opening statement, prosecutors implied to the jury that Price was guilty, simply because of the amount of evidence the Department of Justice held against him.

The defense began pushing back with Marlo Cadeddu's potent cross-examination of Garcia. Cadeddu used Garcia to set up the defense's theory of the case. Because Garcia's investigation of Price started at an arbitrary point, Cadeddu said, the FBI couldn't conclusively evaluate the nature of the relationship between Price, Fain and their co-defendant Kathy Nealy, who is set to go on trial later this year. According to the defense, payments between Nealy and Price were actually repayments for loans, as were payments between Fain and Price. Loan repayments are not subject to taxes. Cadeddu's cross put prosecutors on their heels for the first time in the trial, setting a tone that would

continue for over the trial's seven weeks of testimony.

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The closest prosecutors came to providing a simple description of the crimes Price allegedly committed came during the testimony of David Newsome, the ex-chief counsel of Hillwood, Ross Perot Jr.'s company.

Newsome told jurors about hiring Nealy, and then the benefits the company got from Price as it tried to scuttle Richard Allen's Inland Port deal in southern Dallas County. The inland port would've threatened Hillwood's trade and interests near Alliance Airport in Tarrant County. Newsome told jurors that he knew Nealy had Price's ear, but wasn't aware she was allegedly kicking some of

the cash Hillwood paid her to Price.

If the jury convicts Price on bribery charges, Newsome's testimony will have proven itself to be key.

Former County Judge Jim Foster dings Price. – Foster's testimony is key if the jury is to believe that Price's actions as commissioner harmed his constituents in southwest Dallas County. Throughout the trial, both sides have conceded that Price is the most knowledgeable elected official in Dallas County. Foster outlined the way Price's work on behalf of Hillwood kept thousands as jobs from southern Dallas County residents. If the jury disregards the judge's testimony, or forgets it, it's easy to imagine them thinking "no harm, no foul," when it comes to Price's behavior.

Prosecutors can't remember the evidence. – As prosecutors brought their case to a close, they repeatedly failed to disclose evidence to Price and Fain's defense teams in a timely manner. While none of the evidence they failed to disclose ended up playing an important role in the trial, the prosecution's continued failure to follow procedure frustrated U.S. District Judge Barbara Lynn, who was forced to call several witnesses back to Dallas for further cross-examination. She also explained what happened to the jury, planting the seed that prosecutors in the case acted inappropriately, which goes nicely with defense

claims that the feds were out to get the commissioner.



The government's case is circumstantial. There is no wiretap or video of Price taking bribes or making promises. In order for the jury to convict the commissioner, they have to trust prosecutors that the circumstances presented add up to a criminal conspiracy. Lynn's telling about what the prosecutors' have done wrong isn't likely to inspire trust.

Judge Lynn takes the head-shot off the table. –

The jurors don't know it yet, but Price is facing a lot less time than they think. Last week, Lynn told attorneys that she does not believe the government made its mail fraud case against Price. The government contended that Nealy's paying car payments through the mail for cars she'd given to Price amounted to mail fraud. Lynn disagreed and said she was 99 percent sure she would dismiss the mail fraud charges against Price, should the jury find him guilty.

Mail fraud carries a potential 20 year sentence, the remaining charges against Price for conspiracy to commit bribery and tax evasion carry a maximum sentence of 13 years, and that's only if the commissioner gets consecutive sentences. The *de facto* life sentence for the 66-year-old Price is already off the table, and everyone know this but the jurors.



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