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Judge calls prosecution's witnesses liars

Defendant's money-laundering sentence downgraded by 20 years

By R. Robin McDonald, Staff Reporter

When a man convicted of money-laundering by a federal jury appeared before U.S. District Judge Thomas W. Thrash Jr. for sentencing earlier this year, Thrash used the occasion to tell prosecutors he thought their star witnesses were liars. He let federal prosecutors know in no uncertain terms that, despite the jury's conviction of Adam J. Shorr on two counts of money laundering, he had serious questions about the witnesses on whom the government had relied to make its case. He also expressed his doubts as to Shorr's culpability in a crime.

In that Jan. 30 hearing, Thrash informed assistant U.S. attorneys Jenny R. Turner and Mark A. Campbell that at least two of the government's star witnesses who testified against Shorr were “consummate liars... who perjured themselves repeatedly in the trial of this case.”

The judge then attacked the government's pre-sentence report on Shorr, which claimed he had laundered millions of dollars for the drug ring as “something out of 'Alice in Wonderland.’”

Thrash's contempt for the veracity of the government's witnesses led him to toss out two of the four counts on which the jury had convicted on a motion for acquittal by Shorr's defense attorney, Steven H. Sadow. During the trial, the judge had dismissed six other counts on a motion for acquittal after the government completed its case in chief.

Under federal sentencing guidelines, Shorr's conviction still could have garnered him more than 22 years in prison. But Thrash's own calculations, based on his assessment of the strength of the government's case, stripped more than 20 years off Shorr's maximum sentence. Thrash further reduced it to five months in prison.

During Shorr's sentencing hearing, while leaving in place two counts on which the jury convicted, Thrash also suggested to Sadow that his arguments for acquittal were sound and practically invited an appeal, telling the defense lawyer, “I will let the 11th Circuit decide whether, in fact, such a theory is the law to be applied in money-laundering prosecutions in this circuit.”

Sadow has now appealed the sentence to the 11th U.S. Circuit Court of Appeals. “Having practiced under the federal sentencing guidelines for over 20 years,” the defense attorney

reflected, "I neither have experience nor actually heard of a case in which the court made favorable guideline determinations for the defendant which reduced his custody guideline range by nearly 20 years and then still did a downward variance of another almost two years. ... I've never experienced it. I've never heard about it. I've never read about it."

Thrash "just would not accept the truthfulness of these witnesses," Sadow continued. "The biggest concern that a defense lawyer has going into a case with multiple cooperating government witnesses is that the government, and many times the court, may indiscriminately rely on their testimony even in the face of reasons to disbelieve.

"But my gut instinct during the trial was that Judge Thrash was having serious concerns about the government witnesses' credibility. At the post conviction hearing, I played on those concerns, and the judge, in concise and blunt terms, told the government that its witnesses were not worthy of belief."

Former assistant U.S. attorney Wilmer "Buddy" Parker III, now in private practice as a criminal defense lawyer, called Thrash's sentence "an extraordinary act."

"I can safely say I have never heard of such a downward departure from a purported guideline sentence," he said.

Atlanta criminal defense attorney Jerome J. Froelich Jr., also a former federal prosecutor, agreed that Thrash's commentary and the dramatic sentence reduction was "very unusual."

In Shorr's case, Froelich said, Thrash "was sending a message to the government, 'If you think I'm giving these guys any help for what they were doing, you are sadly mistaken.'"

"This case is like many other narcotics money-laundering cases in that it involved some witnesses with criminal records and unsavory backgrounds," said Patrick Crosby, a spokesman for U.S. attorney David E. Nahmias. "But we often don't get to pick the government's witnesses; they are witnesses because the defendant chose to be involved with them in the criminal conduct at issue. When we believe the evidence, taken as a whole, proves that a defendant committed serious federal crimes, we will try the case in court. After hearing the evidence in this case, the jury convicted the defendant on all of the charges presented to them. While we respect the court's decision to dismiss other charges and do not intend to appeal it, we certainly will defend any appeal filed by the defendant."

Shorr went to trial last July on charges that he had laundered drug money for members of a drug ring that from 1998 to 2002 had trafficked in the illegal drug Ecstasy. The basis for the charges against Shorr were several real estate transactions in which Shorr had invested with his co-defendant, William Harris, who, according to federal prosecutors, was acting as a front for drug ringleaders Stephen Ashley House and Ben Vasseghi.

Sadow had argued that Shorr was engaging in legitimate real estate transactions and that if drug money was involved, which he questioned, Shorr didn't know it.

Harris cut a plea deal with federal prosecutors in return for his testimony against Shorr. He currently is serving a five-year prison term. Federal prosecutors also called House and Vasseghi to testify against Shorr. Indicted in 2002, House pleaded guilty in 2006 to conspiracy charges associated with the distribution and import of drugs and is currently serving a 17-year sentence. Co-defendant Vasseghi pleaded guilty in 2005 to a drug conspiracy charge and multiple counts of importing illegal drugs and is serving a 20-year sentence. Thrash was also the judge in those cases.

Last July, after the government rested its case in chief against Shorr and before the case was turned over to the jury, Thrash granted Sadow's motion for acquittal on six of the 10 counts against Shorr. The jury convicted Shorr on the four remaining money-laundering counts.

After his conviction, prosecutors then sought a harsher sentence for Shorr than they had secured for ringleaders House and Vasseghi.

According to a transcript of the sentencing hearing obtained by the Daily Report, Shorr's prosecution clearly troubled Thrash. At the sentencing, after federal prosecutors maintained that House had testified he was the source of drug money that eventually ended up in Shorr's bank accounts, Thrash interrupted, "I don't believe anything Ashley House said. I think he is a liar."

But, the judge explained later, he had to construe the evidence "in favor of the verdict ... which in this case means trying my best to believe anything that Ashley House testified to and setting aside my belief that he and Mr. Vasseghi are both just simply consummate liars and who perjured themselves repeatedly in the trial of this case."

Thrash tossed out two of the four counts on which the jury had convicted, saying that "ordinary banking transactions where there's no evidence of intent to conceal are not money-laundering transactions."

Thrash allowed the remaining two counts to stand, explaining that "the jury could find that the defendant did enter into a conspiracy with Mr. House even though the government's theory as to the specific counts and the specific transaction was flawed and defective."

Later in the hearing, Thrash reiterated his concerns. "Well, I explicitly and affirmatively state my opinion as to the credibility of Ashley House and Ben Vasseghi by saying that in my opinion they are both consummate liars; and they lied repeatedly in the trial of this case in an attempt to get their sentences reduced."

Not content with that, the judge then launched into specifics of House's testimony that he found "particularly egregious."

Said Thrash: "His testimony that he gave Mr. Shorr \$800,000 in cash and that then sometime in 1999 or 2000 Mr. Shorr flew up here from Tampa, met Mr. House and when Mr. House asked for his, I believe, \$600,000 back Mr. Shorr told him, 'Well, it's gone.' And they just merrily went on about their business. That is just incredible to me that a drug dealer would behave in that fashion and continue to trust Mr. Shorr as his right-hand man to manage all of his affairs after being told that the man he had given \$800,000 to was just gone and that was that. That struck me as being incredible."

The judge also described House's testimony about a stock deal "so unbelievable, self-contradictory and incomprehensible that again I think it shows Mr. House just couldn't get his story straight and could not imagine enough facts to implicate Mr. Shorr so he could get a further reduction in his sentence."

Thrash then asked Sadow to remind the government as to what one of its own prosecutors, John A. Horn, had said about Vasseghi, and, during a recess, personally located Horn's statements and read them into the record when the hearing reconvened.

"This is what assistant U.S. attorney John Horn had to say about Mr. Vasseghi," Thrash said. "He has told agents when they came to see him, 'I'm not cooperating. Go pound sand. ... He is doing things in prison that are against the rules sending out discovery so that people who we are investigating can be alerted to that fact. I mean, what else possibly could this person do to thumb his nose at the government, law enforcement and this court?'"

Thrash also attacked the pre-sentence report—which claimed Shorr was liable for huge sums of money that House gave to others—as "incredible to me. I mean, it's something out of 'Alice in Wonderland.' Mr. Shorr had nothing to do with any of that. ...Both legally and factually, the idea that that money is attributable to Mr. Shorr is just incredible to me. I find it incredible."

Thrash also sustained Sadow's objection to government assertions that Shorr was in the business of laundering money. "I think Mr. Vasseghi and Mr. House engaged in sophisticated money laundering, but the only evidence that I have found to be credible involving Mr. Shorr is that he got a check for \$30,000," the judge said. "That's not sophisticated money laundering. It's just getting a check.

"I just have to agree with Mr. Sadow that in this whole cast of characters it appears to me that Adam Shorr is the least culpable of any," he continued. "I mean Ashley House is Captain America. He is directly responsible for importing a million and a half pills of Ecstasy into the United States. Best I can tell, Adam Shorr was his drinking buddy and engaged in some business arrangements with House for which he I'm sure is most regretful now."

Finally, when prosecutors suggested that Shorr had been engaged in other illicit activities, citing as evidence information they had found on the Internet, Thrash chastised them.

“This case has many mysteries to me,” he said. “I just do not understand what is going on here. And I am not going to make decisions affecting an individual's life based upon something that was downloaded off the Internet this morning and that the defendant has not been given a chance to confront or to investigate or to respond to it. That's just not fair. That's not the way the system is supposed to work.”

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