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Following Mistrial in Former Arizona Corporation Commissioner Bribery Case, Government Dismisses Indictment

On July 17, 2018, a U.S. District Court judge declared a mistrial in a bribery case involving a former Arizona Corporation Commissioner, his wife, a lobbyist, and a water utility company owner after jurors were unable to reach a unanimous verdict. The judge set an August 13 deadline for notice from the attorneys involved in the case on how to proceed and if the case should be retried. On August 7, 2018, the government dismissed the Indictment.

Background

In May 2017, prosecutors charged former Arizona Corporation Commissioner Gary Pierce; his wife Sherry Pierce; lobbyist Jim Norton; and George Johnson, the owner of Johnson Utilities, with bribery, fraud, and conspiracy for actions that allegedly took place from 2011-2013.

In the government's complaint, prosecutors alleged that Norton had his then-wife, Kelly Norton, set up a consulting company -- KNB Consulting -- to funnel payments to Sherry Pierce for political consulting work for his client, Johnson Utilities.



Former Arizona Corporation Commissioner Gary Pierce

[photo: Gage Skidmore]

The government alleged that these payments were actually made in exchange for Gary Pierce's assistance in passing a rate increase and beneficial tax policy for Johnson Utilities. In addition, the indictment alleged that George Johnson had agreed to fund a real estate purchase worth \$350,000 for Gary Pierce.

At Trial

Prosecutors relied heavily on the testimony of Kelly Norton, the ex-wife of Jim Norton who was given immunity in the case. During the trial, Kelly Norton said she had not come forward with her story until after the FBI contacted her in 2015, and that she feared going to prison. Defense attorneys suggested that Kelly Norton had agreed to testify out of spite for her now ex-husband.

In her testimony, Kelly Norton said that Johnson paid KNB Consulting more than \$31,000 that went to Sherry Pierce for political consulting work in 2011 and 2012. Two defense witnesses -- one current and one former member of Congress -- testified that they had employed Sherry Pierce in the past for her political expertise. Defense exhibits showed that Sherry Pierce attended meetings and produced work in exchange for her paychecks from KNB Consulting.

Phoenix white collar criminal defense attorney Ashley Adams, who represented Sherry Pierce at trial, said that the government's case rested on Kelly Norton's credibility. "Clearly, several jurors were unconvinced by the credibility of Kelly Norton's testimony," said Adams.

Taryn Jeffries, a food writer who runs the website Phoenix Bites, served as the jury foreperson. She said Tuesday she was not surprised the government decided not to retry the case, which she considered "weak." She said the jurors deadlocked at 7-5 with those believing the defendants were guilty in the minority.

Jeffries told *Arizona Republic* Reporters that the key for herself, and those who felt the defendants were not guilty, was that it appeared Sherry Pierce did some amount of actual work to earn the money paid to her. Defense attorneys argues that Mrs. Pierce's job was legitimate, and not set up as a way to offer bribe money to the Pierces. "There were specific tasks that Kelly made to Sherry and there was proof we were shown that Sherry completed those tasks," she said. "For the majority of us, it was proven there was actual work done."

The defendants and their counsel are pleased that the case will not be retried.

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