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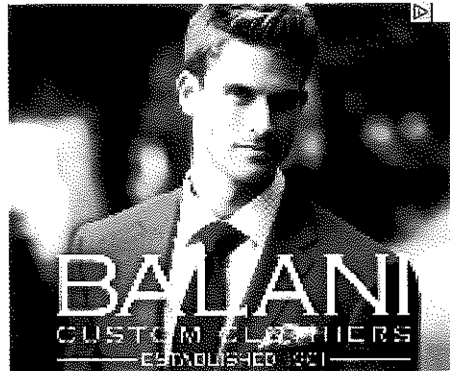

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833 F. Supp. 1277 (1993)

UNITED STATES of America, Plaintiff, v. Jeff BOYD, Edgar Cooksey, Andrew Craig, Charles Green, Sammy Knox, Felix Mayes and Noah Robinson, Defendants.

No. 89 CR 908.

United States District Court, N.D. Illinois, E.D.

September 20, 1993.

*1278 *1279 *1280 Barry Elden, U.S. Atty., Chicago, IL, for U.S.

Kenneth Hanson, Chicago, IL, for Jeff Boyd.

Victor Pilolla, Oak Park, IL, for Edgar Cooksey.

Eugene O'Malley, Chicago, IL, for Andrew Craig.

Joshua Sachs, Chicago, IL, for Charles Green.

Michael Falconer, Chicago, IL, for Sammy Knox.

Ronald J. Clark, Harvey M. Silets, Edwin E. Brooks, Katten Muchin & Zavis, Chicago, IL, for Felix Mayes.

Noah Robinson, Chicago, IL, for Noah Robinson.

Thomas P. Sullivan, Thomas S. O'Neill, Jenner & Block, Chicago, IL, amicus curiae.

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MEMORANDUM OPINION AND ORDER

ASPEN, District Judge:

This is the most painful decision that this court has ever been obliged to render, making the crafting of this opinion a sad and difficult undertaking. Mindful of the consequences of our ruling, we would have preferred to have been able to reach a result other than what must be.

Significant questions of prosecutorial misconduct bring "Trial I" defendants Jeff Boyd, Edgar Cooksey, Andrew Craig, Charles Green, Sammy Knox, Felix Mayes and Noah Robinson before this court seeking new trials. Initially, we retained jurisdiction to address the following issues: (1) whether the government withheld evidence of post-incarceration, positive drug tests of witnesses Harry Evans and Henry Harris in violation of the principles set forth in *Brady v. Maryland,* 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963), and its progeny; and (2) to the extent that Evans and Harris testified that they had not used illicit narcotics while incarcerated, whether the government knowingly used perjured testimony during the course of trial. In light of the evidence adduced during these post-trial proceedings, however, we will expand our focus to consider the impact of other information within the possession of the government yet undisclosed to the defense, as well as additional instances of potentially perjured testimony. Finding that the government in fact (i) withheld information favorable to the defense in violation of *Brady* and its progeny, and (ii) suborned perjured testimony regarding such undisclosed evidence, we conclude that these defendants have been deprived of a fair trial and, consequently, grant their respective motions for new trial respecting all convictions, save Mayes' conviction for the intimidation of *1281 witness Henry Harris (Count 12) and Green's conviction for the unlawful possession of firearms as a convicted felon (Count 58).

The consequences of our ruling today are tragic in many respects. It is a tragedy that the convictions of some of the most hardened and anti-social criminals in the history of this community must be overturned.

It is tragic that the United States of America has squandered millions of taxpayer dollars and years of difficult labor by the courts, prosecutors and law enforcement officers in the investigation and trial of these botched prosecutions.

It is tragic that the hard-earned and well-deserved reputations for professionalism of the United States Attorney's Office for the Northern District of Illinois and other federal law enforcement and penal agencies in this district have been so unfairly tainted by the actions of so few.

It is a personal tragedy for the lead El Rukn prosecutor who, in seeking to attain the laudable goal of ridding society of an organization of predatory career criminals, was willing to abandon fundamental notions of due process of law and deviate from acceptable standards of prosecutorial conduct. The others who followed his lead or failed to supervise him properly, of course, share in this disgrace.

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Prosecutor accused of meddling in civil lawsuit

By Patricia Manson
Law Bulletin staff writer

A federal prosecutor faces an allegation that he's interfering with a former death row inmate's pursuit of civil rights claims against three police detectives.

In a letter sent to the U.S attorney Tuesday, sole practitioner H. Candace Gorman contends Assistant U.S. Attorney William R. Hogan Jr. is abusing his position by playing a personal role in Nathson Fields' federal lawsuit.

Fields alleges three Chicago detectives framed him for the murders of two gang members.

Gorman faxed the letter to Chicago's top federal prosecutor, U.S. Attorney Zachary T. Fardon, and Inspector General Michael E. Horowitz with the U.S. Justice Department in Washington, D.C.

In proceedings in the lawsuit last year, Gorman alleges in the letter, Hogan arranged for the federal prisoners who testified in favor of the detectives to be brought to court even though he himself also was a defense witness.

Hogan has continued to wait outside the courtroom during proceedings in the suit and to talk with the detectives and their defense lawyers, Gorman alleges.

She alleges Hogan had a private conversation Monday with one of those lawyers, Shelly B. Kulwin of Kulwin, Masciopinto & Kulwin LLP, following a hearing in the suit.

The two men went to a witness room in the Dirksen Federal Courthouse, Gorman alleges, after Hogan saw Kulwin exit the courtroom, pointed to the room and yelled "in there."

Gorman wrote that Kulwin represented Hogan in the 1990s in his successful battle to regain his job after he was fired amid controversy over his handling of the El Rukn street gang prosecutions.

Gorman also wrote that Fields' original co-defendant — Earl Hawkins, an El Rukn member and convicted murderer — was released from prison in December shortly after testifying against Fields in the suit. The release came 12 years early, she alleges.

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in the Fields civil rights case — or at the very least that you rein him in and keep him away from this case and the courtroom when the case is up," Gorman wrote.

Spokeswoman Kimberly Nerheim of the U.S. attorney's office declined to comment. Neither Hogan nor the Justice Department could be reached for comment.

In a filing in the suit in January, the U.S. Parole Commission described assertions that there was a secret deal to release Hawkins early in exchange for his testimony as "wild allegations."

In a sworn declaration accompanying the filing, Hogan contends a plea agreement reached in 1989 as well as an independent determination by the hearing examiner led to Hawkins' release.

The parole commission had not seen the letters from him or the detectives, Hogan contends, when it granted Hawkins parole.

In both the declaration and an affidavit filed in February, Hogan says he had not had contact with the parole commission beyond a letter describing Hawkins' cooperation as required by the plea agreement.

Today, Kulwin contended Gorman's description of Monday's incident "is wrong."

"Further, nothing directs or influences my representation of a client other than their best interests and the rules governing our profession," he said. "This case is and will be no different."

In 1986, Fields and Hawkins were convicted in a bench trial before then-Cook County Circuit Judge Thomas J. Maloney of murdering two men. They were sentenced to death.

In 1993, Maloney became the first judge in Illinois history to be convicted of fixing murder cases.

Fields sought a new trial, alleging Maloney accepted a $10,000 bribe to acquit him and Hawkins but then returned the money and convicted the pair after becoming suspicious that the FBI was investigating him.

Fields won a new trial. Hawkins agreed to testify against him in return for a reduced sentence on lesser charges.

Fields was acquitted in 2009. He had spent 18 years in prison, 12 of them on death row.

Following his acquittal, Fields obtained a certificate of innocence under Illinois law. Hawkins testified against Fields in that proceeding.

In his civil rights suit, Fields alleges the detectives — David O'Callaghan, Joseph Murphy and Daniel Brannigan — faked evidence, withheld exculpatory materials and coerced witnesses to make false identifications.

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This month, Kennelly concluded that errors he himself made during the proceedings entitled Fields to a new trial.

Kennelly ordered a new trial on damages only on Fields' due process claim against O'Callaghan. He also granted a new trial to determine both liability and damages on all the other claims.

The trial is set for Nov. 30.

The case is *Nathson E. Fields v. City of Chicago, et al.*, No. 10 C 1168.

Gorman said the case has taken an emotional toll on Fields.

"It's been difficult for him," she said. "He's a very upbeat kind of person, but this has been hard on him."

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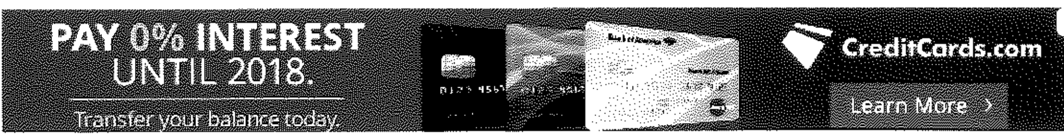

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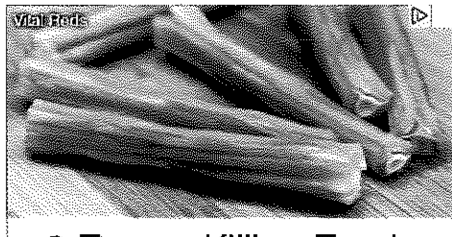

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Prosecutor Wins Way Back to Right Side of Law

Courts: Attorney's efforts to dismantle ruthless Chicago gang dismantle own career. But his crusade to overturn misconduct ruling leads to reinstatement.

November 15, 1998 | SHARON COHEN | ASSOCIATED PRESS

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CHICAGO — His life had been in limbo for 5 1/2 years, he had been shamed in the eyes of the law, but for William Hogan, redemption was just one phone call--and thousands of miles--away that night.

He stopped at a pay phone in the hills of Spain, at the foot of the Alhambra, the ancient Moorish palace he had toured that day. With his sunburned face and white hair long enough to tuck behind his ears, Hogan looked like the sailor he had become, not the hard-charging prosecutor he was--and wanted to be once more.

Hogan had made this call before, at every port in his travels. Bermuda. The Azores. Gibraltar.

But this time when he called his lawyer, there was an answer.

He had won.

He had beaten the Justice Department--the agency that had hired him, trumpeted his success, then dismissed him as a zealot who got too close to a brutal gang he was trying to destroy.

Hogan's rise and fall were linked to the El Rukns, one of the most terrifying, sophisticated gangs in Chicago history. Over 25 years, they committed dozens of murders, peddled tens of millions of dollars in drugs, even bought a rocket launcher and conspired with representatives of the Libyan government, plotting to blow up buildings in the United States.

It was Hogan who got credit for smashing the El Rukns with a sweeping racketeering case that resulted in 56 convictions. And it was Hogan who was blamed when it began unraveling amid charges he had ignored drug use and other illicit behavior by gang members who had turned government informants.

Three judges found he had engaged in misconduct. They ordered new trials for 15 El Rukns. The Justice Department suspended him, then fired him.

But Hogan fought back.

He enlisted his law school buddy to represent him and threw himself into his defense: He hired an investigator, submitted more than 50,000 pages of documents and spent more than $200,000 to clear his name.

Along the way, for months at a time, he escaped to his other passion--sailing.

And there he was that summer night in Spain, having just delivered a 42-foot sailboat to Majorca, when he learned he had won his job back. After all those years, he had one thought:

"Finally."

*

William Hogan is a prosecutor again.

He returned to the U.S. attorney's office in mid-September, nearly two months after an administrative law judge ruled, in a 196-page opinion, that the Justice Department failed to prove he was guilty of misconduct during the El Rukn case.

"The system does work," the 47-year-old attorney says. "It just took five years. I was floating around the Atlantic Ocean waiting and waiting for this to happen."

Not that he was silent during his exile. The story of an aggressive, sometimes abrasive prosecutor who took down a notorious gang, then found himself the accused was irresistible to reporters. When "60 Minutes" and "The New Yorker" came calling for interviews, he obliged.

"I wasn't going quietly in the night, then or now," he says. This wasn't just one guy fighting the system, Hogan insists; there were all those cops and federal agents who put their lives on the line to build the case.

"To have the product of 10 years of incredible labor thrown down the toilet was an incredible injustice," he says.

At first his work was rewarded. The veteran prosecutor, whose resume included victories against drug traffickers, environmental polluters and money launderers in Seattle and Chicago, became the go-to man for gangs.

Top Justice Department officials dispatched him to Los Angeles after the 1992 riots to coordinate an investigation of gangs.

But then, El Rukns began seeking new trials. Their attorneys claimed Hogan had concealed positive drug tests by two El Rukn informants in federal custody.

A second prosecutor claimed he told Hogan in 1989 about a prison memo detailing the test results. Hogan denied it.

Defense attorneys said they would have used this information to attack the informants' credibility.

That was just the beginning.

Sordid stories spilled out in embarrassing hearings: Some informants testified they had drugs smuggled to them and engaged in sex while in federal custody and were allowed unlimited phone calls. A government paralegal had participated in sexually charged phone conversations with one El Rukn informant.

As a witness, Hogan could not present any defense.

Three judges declared it prosecutorial misconduct.

The Justice Department's Office of Professional Responsibility then launched its own investigation.

And Hogan, who thrived on Marlboro Lights and 100-hour weeks--he took just two days off, including weekends, in a 16-month period working the El Rukn case--was suddenly out of a job.

He was also at the opposite end of the government microscope. Family, friends, women he had dated were interviewed. Questions were asked about his endurance, whether he had used drugs--which he had not.

Frustrated by the wait, Hogan, who is divorced, began taking jobs delivering boats up and down the Atlantic and into the Caribbean.

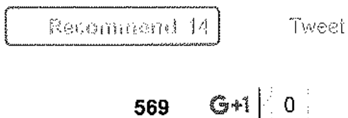
But physical distance never brought mental peace.

UPDATE '95.

The Trials Of William Hogan

The Gang Prosecutor Now Works To Save His Name

December 31, 1995 | By Robert Blau.



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The tangled and tragic case of the prosecutor, the most notorious Chicago street gang and the U.S. Justice Department, grinds on in the federal courts.

When he brought the street gang El Rukn to justice, Assistant U.S. Atty. William Hogan was considered a model prosecutor.

With enthusiasm, idealism and, some would say, arrogance, he convicted dozens of high-ranking Rukns for racketeering, drug trafficking and murder, and seemed to have struck a death blow

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to the violent South Side gang.

But, as described in an article Aug. 21, 1994, the case imploded, and many of the convictions were reversed when three federal judges ruled in 1993 that Hogan and others in the U.S. attorney's office had concealed evidence of drug use and sexual liaisons by some of the star witnesses in the case, namely former Rukns who had turned government informants.

In August, after a two-year investigation, the Office of Professional Responsibility recommended that Hogan be fired for prosecutorial misconduct.

Fervent in his denials of wrongdoing, Hogan is continuing to fight for his career and his reputation. On paid leave from the Justice Department, he has spent much of his time attempting to pick apart the allegations against him.

In response to the OPR ruling, he has filed hundreds of pages of documents challenging its investigation. Hogan says, "I've worked almost as hard on this as I did during the Rukn trials."

The case against Hogan hinged in large part on the testimony of Lawrence Rosenthal, a former assistant U.S. attorney, who said he had informed Hogan of drug use by the Rukn witnesses two years before Hogan admitted learning of their behavior.

Now, Hogan says, he has obtained the testimony of another former assistant U.S. attorney, who claims to have had the identical conversation with Rosenthal. In Hogan's view, the testimony supports his contention that he never had such an exchange with Rosenthal.

So far, Hogan has not had the chance to call or cross-examine witnesses. That will occur only if the Justice Department follows the recommendation of OPR and indeed fires him. Hogan is hopeful it won't come to that.

"Do I expect to be vindicated? Yes," Hogan said. "Does that mean I'll have to spend another two years doing it? Maybe."

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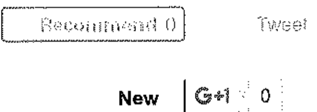
Hogan's Ex-colleague Lied About Supervisors

Valukas Testifies At Hearing On Prosecutor's Firing

October 30, 1997 | By Matt O'Connor, Tribune Staff Writer.



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Lawrence Rosenthal, whose damaging testimony was a key reason the Justice Department fired lead El Rukn prosecutor William Hogan Jr., lied to then-U.S. Atty. Anton Valukas in 1988, Valukas testified Wednesday at a hearing into Hogan's firing.

Valukas, now a private attorney with the Chicago law firm of Jenner & Block, said he concluded Rosenthal had withheld from him allegations of drug use by a female supervisor in the U.S. attorney's office .

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Valukas said it was the only incident in his 4 1/2 years as U.S. attorney in the mid- to late-1980s in which he felt an assistant had lied to him.

Hogan's lawyer, Shelly Kulwin, is attacking Rosenthal's overall credibility because his damaging testimony was critical to the Justice Department's decision to fire Hogan last year for failing to disclose positive drug tests of two El Rukn gang members at trials in 1991.

Rosenthal has said he told Hogan of the positive drug tests in 1989, two years before Hogan acknowledges learning of the information .

Hogan is appealing his firing at the hearing before a U.S. Merit Systems Protection Board judge.

At issue are allegations of drug use by two supervisors in the U.S. attorney's office in 1988 and Rosenthal's honesty in dealing with the matter.

Rosenthal testified Tuesday that Kristina Anderson, who at the time was also an assistant U.S. attorney, told him of seeing a large quantity of marijuana in the male supervisor's home refrigerator when the two dated.

Unsure what to do about the matter, Rosenthal told two close friends in the office about the allegations, and the two decided to inform Valukas.

Valukas said he initially thought the allegations were a practical joke because Rosenthal refused to discuss the matter with him, saying he didn't want to get involved.

Ultimately, an investigation was launched, and Anderson indicated she had told Rosenthal that the male supervisor once confided smoking marijuana with a female supervisor when they had dated some years earlier.

But Valukas testified that when he summoned Rosenthal to his office and told him to "cut the b.s.," Rosenthal never mentioned the female supervisor's alleged participation.

"When he walked out the room that day , I knew he had been less than truthful," Valukas said.

In testifying earlier this week, though, Rosenthal said that Anderson hadn't told him of any allegations against the woman supervisor.

Rosenthal also said he later was told by Valukas that while he was troubled by the incident it wouldn't be "fatal" to his future in the U.S. attorney's office .

Told of that testimony, Valukas said, "I have no recollection of such a conversation."

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Justice Department told to rehire Rukns prosecutor

Associated Press Jul 25, 1998

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Head: Justice Department told to rehire Rukns prosecutor.

By: Associated Press

CHICAGO - A federal prosecutor won his job back Friday, two years after he

was fired over charges of drug use among witnesses and jailhouse sex in the El

Rukn street gang case.

William Hogan must get both his job and two years of back pay with interest,

Administrative Judge Howard Ansorge of the Merit Systems Protection Board said

in his decision.

Ansorge said the Justice Department had failed to prove any of the charges

against Hogan.

"Tell 'em to dust off the desk. He's ready to go back to work," Hogan's

attorney, Tom McGarry, told a news conference.

But lawyers had not been able to contact Hogan to tell him of the decision

because he was in the Mediterranean Sea as a professional crew member aboard a

sailing vessel. McGarry said Hogan would be told "when he makes landfall."

"That's how he makes his living now - he's a sailor," said Shelly Kulwin, a

law school classmate of Hogan's who has fought to get him his job back.

The Justice Department now must decide whether to ask the Merit Systems

Protection Board, which hears cases on the fairness of firings, to reconsider

the ruling, said spokeswoman Chris Watney.

But Kulwin said the department would probably not try to pursue the case. He said Ansorge's opinion effectively cleared Hogan of all of the prosecutorial misconduct charges against him.

"They didn't prove anything," Kulwin said. "Not one little thing."

Hogan was deputy chief of a federal drug enforcement task force in Chicago from January 1988 to 1992 and chief prosecutor in several trials of El Rukn street gang leaders.

The gang engaged in widespread drug sales, extortion and murder for two decades, experts say, and once made a deal with representatives of the Libyan government to destroy property using a light anti-tank weapon.

As part of their crackdown, federal investigators made turncoats of six high-ranking El Rukns. While being held in the Metropolitan Correctional Center, a skyscraper jail a block from the courthouse, the El Rukns helped prosecutors translate heavily coded language used by gang members on hundreds of hours of tapes made by the federal government.

The turncoats also were debriefed by federal prosecutors concerning decades of drug dealing, extortion and killings.

Fifty-six El Rukns were convicted and many were sentenced to life in federal

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prison.

In 1992, though, hearings began on prosecutorial misconduct claims made by defense attorneys. Three federal judges found Hogan responsible for failing to disclose that cooperating gang members used drugs behind bars and were poorly supervised, things that could reflect on their reliability as witnesses.

It was discovered that one of the witnesses had engaged in phone sex with a female paralegal employed by prosecutors.

Fifteen El Rukns convicted of numerous trials were granted new trials. The

Justice Department suspended Hogan in 1993 and fired him in 1996.

But Ansorge wrote that only two cooperating witnesses tested positive for illegal drugs, and one of those results may have been caused by prescription medication.

And it's easily possible that as Hogan claimed, he never saw the memo notifying officials that some of his witnesses had tested positive, Ansorge determined.

He said there was no evidence that Hogan had been negligent in supervising conversations with the witnesses. And he cited testimony that Hogan had warned the paralegal that the witnesses were murderers and that she should not develop personal relationships with them.

Ansorge also said there was no evidence Hogan knew the paralegal had a 45-minute, sexually explicit phone conversation with one of the witnesses in 1991. Jail officials taped the call.

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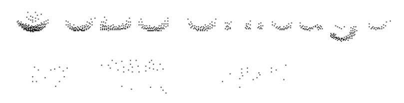

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Killer Cut Secret Deal To Defend Chicago Cops, Defense Attorney Alleges

December 19, 2014 6:24 AM

Filed Under: bribery, Convicted Killer, David O'Callaghan, death row, double murder, Earl Hawkins, El Rukn, Federal Prosecutors, Jerome "Fuddy" Smith, lawsuit, Nathson Fields, police officer, Talman Hickman, Wrongful Conviction

CHICAGO (STMW) — Earl Hawkins is a convicted killer whose lawyer once bribed a judge to try to beat a double murder case. State and federal prosecutors vowed that he wouldn't get out of prison until he was in his 70s.

But after the El Rukn gang member in May helped the City of Chicago defend a lawsuit brought by his wrongfully convicted former buddy, Hawkins on Tuesday walked out of prison a free man — at just 59.

Lawyers for the former El Rukn pal he turned against, Nathson Fields, say they smell a rat.

And they say they have evidence that state and federal prosecutors secretly teamed up with the city and a dirty Chicago cop to spring Hawkins from behind bars in return for his crucial cooperation.

While such deals between authorities in criminal cases are commonplace, Fields' attorneys suggest the alleged deal was improperly hidden from jurors in Fields' civil case.

Neither the Cook County State's Attorney's office, the U.S. Attorney's office, nor attorneys for the cop commented on the allegations Thursday.

Fields, 60, served 18 years behind bars, including 12 on Death Row, for a 1984 double murder before he was finally cleared at a retrial in 2009. He sought an $18 million payout for his "ordeal."

Though a federal jury in May found that he'd only been convicted at his first trial in 1986 after Chicago Police Sgt. David O'Callaghan either

withheld or fabricated evidence in his case, it awarded Fields just $80,000 in damages.

Jurors likely awarded the paltry sum because they were swayed by Hawkins' testimony that Fields was in fact guilty, Fields' attorney Candace Gorman said Thursday. Hawkins testified at the trial that he was with Fields when they killed Jerome "Fuddy" Smith and Talman Hickman.

Jurors were told that Hawkins wouldn't be eligible for parole until 2027 and that he was testifying without the promise of a reduced sentence , she said.

But just two months after the trial, O'Callaghan wrote a letter to the U.S. Parole Commission, urging it to release Hawkins, court records filed this week show.

Praising Hawkins for his cooperation in murder investigations, but declining to mention Hawkins' role in helping him defend himself in his civil trial, O'Callaghan wrote that "I believe that Earl Hawkins, as he as aged, would no longer be a threat to society."

Assistant U.S. Attorney William R. Hogan also wrote a letter of support for Hawkins in July. Hogan mentioned Hawkins "exceptional" cooperation but also argued that Hawkins deserved a break because he had testified on behalf of O'Callaghan and other Chicago cops at the civil trial "despite being under no obligation to do so."

Other cops named in the lawsuit also wrote letters of support, as did assistant Cook County State's Attorney Brian Sexton, records show.

Sexton last year successfully argued in state court that Fields should not be granted a "certificate of innocence" for the 1984 murders. In doing so he told Cook County Judge Paul Biebel that Hawkins and another witness who testified against Fields, Derrick Kees, "won't be out until they are in their 70s."

Cook County Judge Vincent Gaughan ordered Hawkins' release on Friday, Gorman's filing states.

Prosecutors and the police continue to insist that Fields is guilty of the murders, a position they maintained even after a long-missing police file connected to his case was "discovered" after he was finally cleared, buried in an old filing cabinet in the basement of a South Side police station.

Police and prosecutors for years denied the file existed; Fields' lawyers claimed it was hidden on purpose because it held evidence that might have cleared Fields far sooner.

Gorman's filing alleges that the U.S. Attorney's office has deliberately withheld documents connected to Hawkins' parole request from Fields'

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legal team until after Hawkins was released.

For example, in a recording of the parole hearing , Hawkins refers to a U.S. Attorney he says he wants to represent him, but the attorney's name is redacted in the version that was provided to Gorman, she wrote.

"It is clear… that the DOJ has been complicit in hiding the materials," she added, urging U.S. District Judge Matthew Kennelly to order prosecutors to turn over all documents connected to Hawkins' parole.

"That the individuals discussed herein were engaged in a conspiracy is clear. The complete scope of that conspiracy is not clear."

Speaking Thursday, she told the Sun-Times she hopes the disclosures will bolster her calls for a re-trial of Fields' civil claims.

"Hawkins was the main witness for the city," she said. "Their crucial witness was paroled just months after they said he wouldn't be, with their help."

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ANNALS OF LAW MAY 23, 1994 ISSUE

CAPONE'S REVENGE

By Jeffrey Toobin

CAPONE'S REVENGE*The New Yorker*, May 23, 1994 P. 46

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ANNALS OF LAW about Northern District US Attorney Bill Hogan, 42, and his prosecution of the El Rukn drug-dealing gang, which fell apart after jailing many criminals because of allegations of impropriety between criminal cooperators in the case and their government handlers. The El Rukn cases have turned into a tragedy for the city of Chicago. Hogan was placed on paid administrative leave last July and made the subject of an investigation by the Justice Department's Office of Professional Responsibility or OPR. For the past 10 months, this consummate investigator has looked on as his collegues, his targets, and his ex-wife have been summoned in the course of the OPR probe. Later this month, when OPR is expected to make its final report to Attorney General Janet Reno, Hogan will learn whether he is to be cleared, disciplined, fired, or even, potentially, prosecuted as a criminal himself for his role in the El Rukn case.

VIEW ARTICLE

Jeffrey Toobin has been a staff writer at The New Yorker since 1993 and the senior legal analyst for CNN since 2002.

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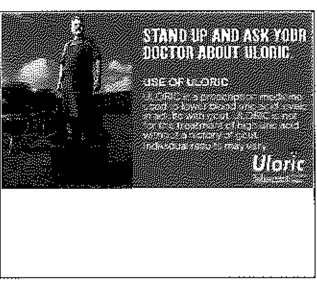

United States Court of Appeals,Seventh Circuit.

UNITED STATES of America, Plaintiff–Appellee/Cross–Appellant, v. Michael SEGAL, Defendant–Appellant/Cross–Appellee.

Nos. 13–3847, 14–2214, 14–2215, 14–3533.

Decided: January 21, 2016

Before POSNER, RIPPLE, and HAMILTON, Circuit Judges.William R. Hogan, Attorney Marsha A. McClellan, Attorney Office of the United States Attorney Chicago, IL, for Plaintiff–Appellee/Cross–Appellant. Edward T. Joyce, Attorney Edward T. Joyce & Associates, P.C. Chicago, IL, for Defendant–Appellant/Cross–Appellee.
Some years ago Michael Segal—lawyer, certified public accountant, insurance broker—was indicted along with Near North Insurance Brokerage (NNIB), a company he owned, for multiple violations of federal law. He was charged with racketeering, mail and wire fraud, making false statements, embezzlement, and conspiring to interfere with operations of the Internal Revenue Service. NNIB was charged with mail fraud, making false statements, and embezzlement. Both were convicted in 2004, and the following year Segal was sentenced to 121 months in prison. United States v. Segal, 495 F.3d 826, 830 (7th Cir.2007). After further proceedings, see 644 F.3d 364 (7th Cir.2011), he was resentenced to time served and ordered to pay $842,000 in restitution and to forfeit to the government his interest in the company and $15 million.

To resolve a series of disputes that arose over the forfeiture judgment and had not been resolved either by the district court or in either of the decisions (cited above) by this court, the parties in 2013 agreed to a binding settlement that specified the final ownership and disposition of certain of Segal's assets. Segal, by then released from prison, participated actively, indeed aggressively, in the negotiation of the settlement. But after the district judge approved the settlement the parties clashed over three issues concerning the disposition of Segal's assets and returned to the district court for a resolution of those issues. The judge resolved two of them against Segal and the third in his favor, giving rise to three appeals—two by Segal, one by the government—that we have consolidated for briefing, argument, and decision. (They were separate appeals, rather than a single appeal, because the orders giving rise to them had been issued by the district court at different times.) The fourth appeal, No. 142215, related to a writ of mandamus filed by Segal that he has now abandoned; we ignore it.

The first of Segal's two appeals relates to insurance policies on his life. The settlement agreement gave him two of the eight policies outright and an option to purchase all or some of the others, but required that he exercise the option within six months of the district court's approval of the settlement; otherwise the option would be forfeited. He opted to purchase one of the remaining six policies before the deadline and asked the court to extend the deadline for the others. He said he needed time to raise money to buy them because the government hadn't promptly released money owed to him. He also complained that the government had delayed his efforts to obtain information from the insurance companies.

The judge refused to extend the deadline, pointing out that paragraph 9(e) of the settlement agreement "sets up a very precise time-frame that doesn't condition [the deadline for exercising the right to purchase the insurance policies] on the release of other moneys." The paragraph gives Segal

a right to exercise an option to purchase all remaining insurance policies held by Near North Insurance Brokerage as listed on Exhibit A at the cash surrender value computed when, and if, the option is exercised. The option to purchase these insurance policies must be exercised no later than six months from the date the Settlement Stipulation is approved by this Court. Segal shall exercise this option by sending a letter to the United States Attorney for the Northern District of Illinois, to the attention of the undersigned Assistant United States Attorney, which identifies the policy or policies he intends to purchase. Within thirty days of receipt of the letter, the cash surrender values of the policy or policies shall be provided to Michael Segal. Fifteen days after receipt of the cash surrender information, defendant Segal shall pay good funds for the purchase of the policy or policies. If the option is not exercised or the funds are not received as required, the government shall liquidate the policy or policies.

pThe method of exercising the option was thus clearly stated: the dispatch of a letter to the prosecuting assistant U.S. Attorney within six months of the court's approval of the settlement. If the letter was dispatched by the deadline, Segal would have up to 45 days to pay for the policies, depending on when the government told him what their cash surrender values were.

He argues that it was unreasonable to expect him to raise the money before the six-month deadline. Maybe so; but that was not the deadline for raising the funds-it was the deadline for notifying the government that he was exercising the option. He would have had an additional 15 days at least, and 45 at most, after the six-month deadline to raise the money, but only if he exercised the option before the deadline.

He argues that the government withheld from him both information that he needed in order to determine the value of the policies that he was considering trying to buy and also cash that the government was obligated to return to him after he satisfied the forfeiture judgment. These arguments have no merit. The government helped Segal obtain information about the policies (namely their cash surrender values) prior to the option deadline by writing the insurance companies. Although one of the companies was slow to supply the information, that was not the government's fault. In any event paragraph 9(e) required only that the government inform Segal of the cash surrender values of the policies after he had exercised his option to purchase them.

As for his annoyance that the government failed to promptly release funds to which he was entitled—funds he might have used to buy the policies—the option to buy them was not conditioned on the government's release of other assets to him. Nor was the government the only potential source of money with which to buy the policies.

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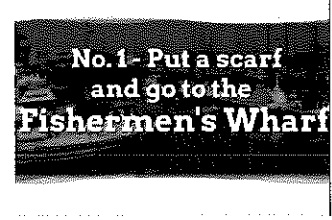

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They had value and so a bank might have been willing to lend money against them. The loan would have enabled Segal to buy the policies and repay the loan once the government released the funds owed him.

He had only himself to blame for much of the delay in the government's release of funds to him. For example, the settlement agreement required him to transfer to the government his ownership interest valued at $750,000 in Sheridan House Associates, a real estate limited partnership. He refused on the ground that he'd conveyed half his ownership interest to his former wife back in 2003. But she had executed a release of her interest in all assets that the government had restrained, thus clearing away any obstacle to the transfer of the entire ownership interest to the government. Paragraph 11 of the settlement agreement states that if any property that was to be transferred to the government "is not available to satisfy the forfeiture judgment because it has been otherwise transferred, encumbered or alienated, indirectly or directly by defendant Segal, he shall owe the United States the appraised value of the asset."

Had Segal transferred the ownership interests promptly, he would have received $750,000 that he could have invested in the purchase of the insurance policies. But he refused to execute a release of his interest. Six months of litigation ensued, in which the ex-wife intervened seeking a share of the ownership interest. The dispute was finally resolved when the district judge ordered that the entire interest be transferred and that the government release the $750,000 to Segal. But by then the deadline for the exercise of the option to buy the insurance policies had expired; the fault was Segal's and his ex-wife's.

Segal's second objection to the administration of the settlement agreement relates to the Chicago Bulls basketball team. As part of the settlement, the government retained half of Segal's ownership interest in the Bulls, an interest consisting of a 1.7 percent limited partnership interest in the Chicago Bulls basketball franchise, a 1.1 percent interest in its stadium (the United Center), and a 1.1 percent interest in its broadcasting company (Bulls Media)—for simplicity we'll call the entire package the Bulls investment, the value of which the government estimated at $4.175 million. The settlement agreement gave a half interest back to Segal plus a right of first refusal of any offer made to the government for its half interest—but with conditions, as explained in paragraph 9(f) of the settlement agreement:

Defendant Michael Segal shall retain the right of first refusal on a commercially reasonable, responsible cash offer made to the United States for the purchase of the government's ownership interest within six months of the approval of the Settlement Stipulation. Within seven days of receipt of an acceptable offer, the United States shall notify Michael Segal of the offer. To exercise his right of first refusal to purchase the interest of the United States, Michael Segal must notify the United States Attorney for the Northern District of Illinois, within seven days of receiving said notice from the United States[,] of his intent to purchase the government's interest in the partnership at the cash offer received, and within ten days of serving notice shall provide good funds in that amount for the purchase of the government's interest. If no acceptable offer is received by the United States within six months from the date the Settlement Stipulation is approved by this Court, defendant Segal shall have the option to purchase the government's partnership interests with good funds at the appraised value set forth on Exhibit A within thirty days after the expiration of the six month period. No later than seven days prior to the expiration of the six month option period, defendant Segal shall notify the government of his intention to purchase the partnership interest, and shall provide good funds for the purchase of the government's interest in the partnership interest within ten days of the date of the notification.

The key sentence is the first: the grant to Segal of a "right of first refusal on a commercially reasonable, responsible cash offer made to the United States for the purchase of the government's ownership interest within six months of the approval of the [settlement]."

Within the six-month period the government received a $2.9 million offer for the Bulls investment from Peter Huizenga, a lawyer and wealthy investor who had been a founder of Waste Management Company. Segal didn't match Huizenga's offer, so he didn't get to repossess the other half of his original investment in the Bulls. He contends that the offer the government received from Huizenga was not a "commercially reasonable, responsible cash offer . [to] purchase" because it allowed the offeror to withdraw his offer for any reason after the completion of due diligence. The government argued, and the district judge ruled, that the offer was commercially reasonable; but neither the district judge, nor the government either in the district court or in our court, gave more than perfunctory consideration to the issue of reasonableness.

A contract is a commitment, which if violated gives rise to a right to sue. An unconditional offer becomes a contract as soon as it's accepted. Many offers, however, are conditional. One might for example make an offer to buy a house conditional on being able to obtain a mortgage for a certain duration at a certain interest rate, to have the house inspected for termites, to inspect for liens, to have the sturdiness of the construction checked, and so forth. That offer, with all its conditions, would if made in good faith nevertheless be "commercially reasonable," as the offeree would understand that he'd have a deal were the conditions fulfilled. Huizenga's offer, however, did not have a finite number of conditions; it preserved his "sole and absolute discretion" to withdraw the offer for any reason.

Segal hints that in requiring that the offer be "acceptable," paragraph 9(f) of the settlement agreement required that the offer had to be capable of being accepted by the government, thus forming a contract. But the natural meaning of "acceptable" in this context is that the offer, since it did not bind the offeror, would have to be an acceptable basis for negotiations—for example by specifying a reasonable price that the government would have to consider as the parties began to negotiate the terms of the contract. Huizenga's offer was acceptable in that limited sense even though it did not commit him to purchase the investment in the Bulls.

What casts the offer's commercial reasonableness into serious question begins with the fact that the Bulls are privately owned and that before the purchase could be completed a prospective purchaser of an investment in the Bulls (the offeror, in other words—Huizenga) would need both to dig for information about the franchise and to obtain the approval of both Jerry Reinsdorf (the Bulls' majority owner and managing partner) and the National Basketball Association, to become a partner in the Bulls enterprise (which Huizenga wanted to become). The government had only six months after the approval of the settlement agreement within which to obtain a commercially reasonable offer. Huizenga could have made his offer conditional on receiving the approvals he wanted rather than reserving the right to withdraw the offer for any (or for that matter for no) reason. Such an offer would have been commercially reasonable. But he refused to commit himself.

When the offer was made, the government sent a copy to Reinsdorf, and that kicked off negotiations with Huizenga. But after extensive negotiations involving the NBA, Reinsdorf decided not to allow Huizenga, despite the investment in the Bulls that he would be making, to become a full partner. As a result, Huizenga withdrew his offer.

As we said in Architectural Metal Systems, Inc. v. Consolidated Systems, Inc., 58 F.3d 1227, 1229 (7th Cir.1995), "the recipient of a hopelessly vague offer should know that it was not intended to be an offer that could be made legally enforceable by being accepted ." That doesn't make such an offer commercially unreasonable; our home-buying example shows that contingent offers can be commercially reasonable. The problem in this case is the impact of Huizenga's highly tentative offer on Segal's legitimate interests. According to the government and the district judge, to repossess his original half-interest in his Bulls investment pursuant to paragraph 9(f) of the settlement agreement Segal had to meet Huizenga's offer without knowing whether it

was realistic. Huizenga was offering $2.9 million for an investment that had been appraised at only $2.09 million, and Segal argues that because Huizenga's offer had been withdrawn he (that is, Segal) should have been allowed to purchase the investment at the appraised value. For he had notified the government of his intent to purchase it before the government had received Huizenga's offer and more than seven days before the expiration of the six-month option granted Segal by the settlement.

True, Segal could purchase the investment at the appraised value only if no acceptable offer had been received by the government within six months, and Huizenga's offer made the deadline. But what was acceptable to the government could be unreasonable because of the impact on another party, namely Segal. Because Huizenga's offer was not binding and might therefore have been inflated—intended as a gambit for opening negotiations and in any event dependent on what his review of the Bulls' financial information might reveal—Segal could have no confidence that $2.9 million was a realistic valuation; if it was excessive, then by exercising his right of first refusal Segal would have found himself having overpaid for the investment. The form of Huizenga's offer forced Segal, the holder of the right of first refusal, to choose between paying what might be way too much and giving up his right of first refusal. He had no firm ground on which to stand, given that Huizenga was free at any time to renege on his offer, as it was "intended as a statement of the intent of the parties and is not intended to be binding on any party. Any binding agreement with respect to this matter is subject to the negotiation of a mutually acceptable Definitive Agreement as set forth herein." Segal may also have reasonably interpreted paragraph 9(f) of the settlement agreement to conform to the usual practice, in the sale of professional sports teams, of prospective buyer and prospective seller to make a binding agreement conditional on approval by the league (the NFL in the case of football, the NBA in the case of basketball). See Beacon on the Hill Sports Marketing, "Investment Proposal Summary: Process for Buying an NFL Team, General Partnership or Limited Partnership Investment," www.beacononthehillsportsmarketing.com/pages/leaguesfranchises_nflinvestmentproposal.htm; Constitution and By-Laws of The National Basketball Association, Article 5, pp. 8–9, May 29, 2012, http:mediacentral.nba. com/media/mediacentral/NBA-Constitution-and-By-Laws.pdf (both websites visited January 20, 2016).

Segal was authorized to purchase the Bulls investment at the appraised value "if no acceptable offer [wa]s received by the United States within six months," and that appears to have been the case. The offer was acceptable to the government, but to be acceptable to Segal, an interested party, it would have had to be a firm offer—a reliable estimate of the market price of the Bulls investment formerly owned by Segal that would enable him to determine whether to pay that price. The expectation was disrupted by Huizenga's offer, which the district court should therefore have rejected. The district court must allow Segal to exercise with all deliberate speed his option to repurchase the remaining half of his interest in the Bulls for the appraised value.

So much for Segal's appeals. The government's appeal relates to another asset that the government retained as part of Segal's criminal punishment—stock, worth about $467,000, in the Rush Oak Corporation, a bank holding company. The government claims that the parties agreed as part of the settlement that the United States would keep the stock in order to satisfy the forfeiture judgment. Paragraph 12 of the settlement agreement states:

All parties agree that upon approval of the Settlement Stipulation by the Court, the personal judgment in the amount of $15 million entered against defendant Segal shall be satisfied and the United States shall have no further claim against defendant Segal relating to the entry of the forfeiture judgment against him personally. Upon entry of a final order of forfeiture against the remaining property identified on Exhibit A, but not listed on Exhibit B, all right, title, and ownership interest in that remaining property shall vest in the United States and no one, including defendant Michael Segal, shall have any further claim to the property.

Thus the government would keep the assets that were listed on Exhibit A but not those listed on Exhibit B; those Segal would keep. But there's a problem: the Rush Oak stock is not listed on either exhibit.

Upon approval of the settlement agreement the $15 million forfeiture judgment against Segal was satisfied and Segal moved to have the Rush Oak stock released to him on that ground. But the government presented evidence that in the negotiations leading up to the settlement agreement the early versions of Exhibit A listed Rush Oak, but Exhibit B never listed it. The assistant U.S. attorney who was handling this part of the government's case handed Segal's lawyer a draft he had prepared of Exhibit B—and it did not include the Rush Oak stock. Subsequent drafts excluded the stock from both lists.

While there was no discussion of the Rush Oak stock during the settlement negotiations, there were explicit negotiations about the Oak Bank stock, and Segal claims that the government's agreement to release the Oak Bank stock also covered the stock of Rush Oak, the holding company for Oak Bank. But the government presented evidence that the two types of stock had always been mentioned separately on the asset schedules. And the government had said it was agreeing to release the Oak Bank stock because it was worth only about $20,000; this estimate could not have included the Rush Oak stock, valued at $467,000.

The district judge held a hearing on whether to release the Rush Oak stock to Segal, and noting the absence of the stock from Exhibit A ruled that Segal was entitled to it. But in so ruling he overlooked the possibility that the asset had been inadvertently omitted from both lists.

The government asked that Segal's lawyer be called as a witness. The judge refused lest that "start getting into attorney—client privilege matters." No it wouldn't. The government wasn't asking to question the lawyer about confidential discussions with his client but only about whether the lawyer had seen the Rush Oak stock on the first version of Exhibit A, signifying that the government would retain it, and had noticed the omission on later versions but had not brought that to the court's attention.

The evidence points to a mutual mistake of fact—both parties assumed the stock would be retained by the government but in the rush of drafting and redrafting of the settlement agreement had failed to mention it. The fact that the stock was left off both exhibits suggests that that particular asset (hardly a giant) was simply forgotten. There is no evidence that it was meant to be on Exhibit B, the list of assets to be returned to Segal. But the government properly argues that an evidentiary hearing, which the district judge did not hold, is necessary to resolve the issue.

To summarize, we affirm the district judge's ruling with respect to the insurance policies, but reverse his ruling with respect both to the Bulls investment and the Rush Oak stock and remand with directions to allow Segal to buy the Bulls investment at its appraised value and to conduct an evidentiary hearing of the government's appeal regarding Rush Oak. The judgment entered by the district court is therefore AFFIRMED in part and REVERSED in part, and the case REMANDED with instructions.

POSNER, Circuit Judge.

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(Mr. Skolnick is scheduled to appear on Tom Valentine's radio program, *Radio Free America*, at 9 pm cst on Tuesday, May 7, 1996. The show can be heard on shortwave radio: 5.065 Mhz.)

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WILLIAM COLBY and CIA DIRTY TRICKS
==================================
By Sherman H. Skolnick

Once they find something that works, that is what they do. So, again and again CIA officials have been caused to "disappear" or have been murdered. It is better than having to make messy explanations. A favorite cover story is the boat scenario or the plane crash, actually sabotaged.

In 1972, Dorothy Hunt, herself higher up in CIA than her husband, died along with eleven other Watergate figures in a sabotaged plane crash in Chicago. She was the wife of Watergate burglar, E. Howard Hunt. Together, they had blackmailed some two million dollars out of Nixon to stay shut about what they knew about Nixon's role in arranging the political assassination of President Kennedy. Her plan had been to transfer in Chicago to a private plane at a suburban airport to take her to an important meeting of her associates in the Caribbean. She reportedly survived the pancaking of the plane but was murdered by those among a 150-person FBI team that took over the crash site and excluded the local fire and police. Her associates in the Caribbean disappeared and all that was found was their boat.

In 1978, a CIA officer, suspected of being a Soviet "mole", disappeared and his empty boat was found near Chesapeake Bay. Without waiting to investigate, the local authorities were quick to state there was no foul play. Later, a body was found with a shot in the head. The authorities quickly stated it was the CIA official, John A. Paisley, and that he supposedly had committed suicide. They ignored his wife's vigorous protests that the body was the wrong height to be that of her husband. Later, the Senate Intelligence Committee, always friendly to CIA, stated that there was no credible evidence to show Paisley's death was other than a suicide. The investigative report was never made public, apparently for reasons of "national security", a catch-all cover up term.

Then there is the case of William Colby, former Director of Central Intelligence, who disappeared and his empty boat was found in the shallows of a Potomac River tributary near his southern Maryland retreat. (On the map, not so very far from the disappearance of Paisley.) Quite a bit of background is necessary to understand Colby.

During the war in Southeast Asia, William Colby headed the CIA's "Phoenix Assassination" Program, murdering some 68,000 Vietnamese for no better reason than they were on a list of those with the wrong politics or supposedly opposed the Saigon government, puppets of the American CIA. Also, starting in the 1970s, if not

earlier, he was the overseer of a strange, almost secret bank called the Nugan-Hand Bank, with facilities stretching from California, to Australia, to the Philippines, Southeast Asia, and Saudi Arabia. Top U.S. Admirals and Generals operated their various offices.

In its basic form, the Nugan-Hand Bank handled CIA covert funds, financed worldwide CIA-sponsored assassinations, washed dope money, and aided U.S. military personnel to launder illicit loot, from dope dealing, gambling, sale of U.S. military equipment stolen in great quantities from and during the Viet Nam War.

One of the founders of the Nugan-Hand Bank was found murdered in 1980. On his body was the card of William Colby. Not publicized much in the U.S. was the investigation of a government commission in Australia. Colby and the Generals and the Admirals ran the bank. The sordid details are in Jonathan Kwitny's book, "The Crimes of Patriots".

Some apologists for Colby contend he aided one or more Congressional investigations in the 1970s of CIA, supposedly for reform, such as the Senate Committee headed by the late Senator Frank Church. While outlining CIA plots against Cuba's Fidel Castro, these Congressional committees never saw fit to inquire into the doings of the Nugan-Hand Bank and William Colby's role with it.

Upon the supposed collapse of the Nugan-Hand Bank, supposedly wiping out the secret deposits of various U.S. Military people, their successor and alter ego became what was called Household International. The world headquarters of the operation moved to the Chicago suburb of Prospect Heights. Colby, who had been Director of Central Intelligence from 1973-1976, continued on after 1980 as the overseer of the new name, Household International. Subsidiaries, actually and technically savings and loans, were called Household Bank.

In the 1980s, some thirty or more savings and loan associations were secretly taken over by CIA, for use to funnel covert funds for bloody and dirty tricks. After the operation was concluded, the money was sucked out, and the particular S&L "collapsed". A highly skilled Texas journalist detailed the doings of some 26 of these CIA-S&L operations which went "bust" and the clean-up arranged supposedly by the federal deposit insurance authorities at the great damage and detriment of the taxpayers. One of the S&Ls was run by one of George Bush's sons. See: Pete Brewton's heavily documented work, "The Mafia, the CIA, and George Bush".

Three or more CIA-S&Ls, not mentioned in the book, were in Illinois, in the Chicago area.

CLYDE SAVINGS & LOAN. A director of this reputed CIA operation was Congressman Henry Hyde who wore two hats. First, he was head of the CIA's "black budget" with more actual authority than the Director of Central Intelligence. Second, he has been a Congressman, on the House Intelligence Committee. More recently, Hyde became chairman of the House Judiciary Committee, with authority to decide who, if anyone, is subject to impeachment for being a corrupt federal judge.

Does it not violate the U.S. Constitution's mandate of Separation of Powers, for Hyde to be both a Congressman at the same time he is head of CIA's "black budget" for dirty tricks?

The Federal Savings and Loan bail-out agency, Resolution Trust Corporation [RTC], brought an action in Chicago Federal District Court, accusing Hyde of various misconduct in the

downfall of Clyde Savings. Case No. 93 C 2477. The case was being heard by Chicago Federal District Judge Brian Barnett Duff, closely aligned with the Federal Reserve and a crony of George Bush. Judge Duff is no stranger to covering up massive corruption. In 1990-91, he had the case involving the Federal Reserve Board, the House Banking Committee, and Italy's Banca Nazionale Delavoro, Italy's largest bank owned in part by the Vatican. At issue were records of BNL's Chicago branch, relating to the private joint business ventures of Iraq's strongman, originally installed by CIA, Saddam Hussein, and Hussein's secret business partner. Judge Duff ordered the records be kept secret. This writer and his associates were the only journalists attending the federal appeals hearing of the BNL case in May, 1991. I interviewed two of the participants who told me that the secret private business partner of Saddam Hussein has been George Bush, at the time U.S. President. Involved were BNL records relating to oil kick-backs from the whole Persian Gulf area for the decade 1980, to 1990, 25 billion dollars per year kick-backs, shared by Saddam Hussein with George Bush and Bush's circle of cronies; 25 percent of one trillion dollars of oil shipped to the West in that decade, 25 billion dollars per year, 250 Billion Dollars total.

So Judge Duff knew how to torpedo controversies and cover them up. At a crucial point in the case against Henry Hyde, a CIA attorney appeared in chambers with Judge Duff, and persuaded Duff -- as if persuading were needed -- that all key records are to be kept secret. In a later trick, Judge Duff arranged to delay a trial on key issues for several years by certifying a piece-meal appeal, usually not permitted -- all to protect CIA and Hyde.

LIBERTYVILLE SAVINGS & LOAN. A director of this CIA S&L was Charles Hunter who was the chief financial officer of the drugstore chain, Walgreen's. Hunter actually ran Walgreen's since the CEO, "Cork" Walgreen, spent two weeks of the month vacationing in Florida. RTC sued Charles Hunter in Chicago's Federal District Court, accusing Hunter and others of causing the downfall of Libertyville S&L, Case No. 91 C 1741. Accused of causing damages of more than 42 million dollars, the details could have great impact on Hunter's role with Walgreen's, showing violation of his fiduciary duties as chief financial officer of Walgreen's.

Hearing the case was Chicago Federal District Judge Harry D. Leinenweber -- wife, Lynn Martin, was Secretary of Labor in the Bush Administration. (We confronted her on a radio talk show, asking her to explain why her husband the Judge never disqualified himself when several cases were on his docket which she as Labor Secretary was shown as a party to the case. She replied, she never asked her husband about his Court work.)

To cover up the CIA S&L case, Judge Leinenweber reportedly received a gift, or bribe, of some 17 million dollars. The RTC officials bringing the case looked the other way, as they did in corrupt doings related to Bill and Hillary Clinton.

OLYMPIA SAVINGS AND LOAN ASSOCIATION, reportedly operated by CIA in a suburb of Chicago. Overseer in this operation reportedly has been Dr. Earl Brian, a financial industry and mass media heavyweight. In various books, he is accused of being a key player in the "October Surprise", guns and money funneled to Iran to have them delay release of the U.S. hostages so as to wreck Jimmy Carter's bid for re-election as president and help install the Reagan/Bush ticket. The hostages were released in January, 1981, just as Reagan was being sworn in as the new President.

Dr. Earl Brian reportedly played a key role in the INSLAW Affair. He also owned Channel 66 TV, just south of Chicago, in

an area that is the reputed U.S. entry point for the smuggling in to this country of "China White", high purity heroin. He ran a financial espionage operation called Financial News Network. Brian has been prosecuted in Los Angeles Federal Court, for a scam using FNN; the details about espionage and CIA have been omitted from the federal criminal charges, however, by the federal prosecutor.

AMERICAN HERITAGE SAVINGS & LOAN ASSOCIATION. Reportedly used in part for washing CIA covert funds, the collapsed shell of what was left was merged and taken over by Household Bank. The Federal Home Loan Bank parked 58.4 million dollars with Household to satisfy claims pending since 1983 by Joseph Andreuccetti, a west suburban caulking contractor. Andreuccetti was the victim of a swindle that included the following:

1. Multi-million dollar condo complex in Addison, Illinois, a west suburb of Chicago, a very short distance from the home of Henry Hyde. Called Kingspoint Condominiums, in the deal the nephew/godson of Paul Marcinkus, namely Christian Henning, Jr., falsely claimed to be Andreuccetti's partner. Marcinkus, until 1991, was the head of the Vatican Bank. Authorities of the Republic of Italy contend Marcinkus was part of a scheme to launder dope and gun smuggling and political assassination funds, on behalf of the Sicilian mafia and the American CIA, through the Vatican Bank. Bishop Marcinkus has so far escaped extradition from Sun City, Arizona, where he resides now, back to Italy, on the contention that the Vatican is a separate sovereignty from Italy.

2. Marcinkus, originally from the long-known mafia-enclave of Cicero, a Chicago suburb, has been the dominant force controlling First National Bank of Cicero, a reputed Mafia-CIA money machine. To try to cover up a vast scam by Marcinkus, Henning, and others, the Cicero bank used false loan details to fraudulently push Andreuccetti into *involuntary* bankruptcy, still pending since 1984, Case numbers 84 B 10338, 10339, and some ten related cases showing the roles of Household, the First National Bank of Cicero, First Midwest Bank, and others in skimming off funds used for bribing judges and other political officials.

3. Officials of the defunct American Heritage S&L, to silence them, were prosecuted in the case of U.S. vs. John Best et al. The federal prosecutor, William R. Hogan, Jr., is a story all by himself. Reportedly trained and groomed by Special Forces and CIA, Hogan in a way is far too clever to have been just an Assistant U.S. Attorney in Chicago. Hogan's extended family has included those close to the Catholic Archbishop of Chicago who also is Treasurer for the whole Catholic Church for the Western Hemisphere, from Canada to Argentina.

Hogan was the federal prosecutor in a large group of cases of the narco-terrorist street gang called the El Rukns. The gang previously was called the Blackstone Rangers and was used as computer models in how they cowed and terrorized Chicago southside neighborhoods, to study how to cow and terrorize hamlets in Viet Nam. Until Hogan showed up, the El Rukns were untouchable. Their bail bond money was often supplied by the traditional mafia. The gang early on was financed by CIA-linked Foundations, including the Charles Merrill Trust of Cambridge, Mass. (Linked to Merrill-Lynch stock brokerage.)

Hogan is accused by his Justice Department bosses of having been overzealous in the El Rukn prosecutions. Most of the defendants who were also witnesses against other gang members were already in jail awaiting trials. Hogan is accused of arranging sex and dope for some of the El Rukns, either inside the jail, or transporting them to a federal office building to have sex and dope there.

Hogan's apparent defense is that if this occurred at all, it was arranged or supervised by his supervisors. The more serious matters, according to Hogan's circle, is that at least six federal judges in Chicago take bribes, as known to corrupt officials in the IRS and the Justice Department; and that nothing is being done by federal authorities. Among those reportedly taking bribes is Chief Bankruptcy Judge John D. Schwartz presiding in the Joseph Andreuccetti cases and related matters. Schwartz previously was a director and stockholder of First National Bank of Cicero, instrumentally interwoven in the complex of details in the Andreuccetti Affair. According to an undisputed admission and confession in a related court case, Schwartz has not filed a proper federal income tax return and has an estimated off-shore net worth of 141 million dollars -- has not filed a proper return in *30 years*.

The Kingspoint valuable property was purchased by Wallace Lieberman, on other occasions a federal bankruptcy auctioneer; Lieberman's partner in the deal was Robert Belavia, a reputed mafia kingpin. Shortly after Marcinkus returned to the U.S. and a few days after a complaint about Lieberman was made to the U.S. Attorney in Chicago about Lieberman, he was murdered, apparently by an FBI agent (the same one, according to undisputed federal court records) who caused some 40 federal grand jury witnesses to be murdered or to disappear in the proceedings in 1991-92, in the INSLAW Affair (high Reagan and Bush administration officials accused of stealing high technology and selling it to, among others, sworn enemies of the U.S.)

That same FBI agent, Mike "Chuckie" Peters, flies a helicopter and plays a key role in the 1996 events in Montana.

4. In a federal court case against top IRS and Justice Department officials, involving corruption, an undisputed confession and admission of an official in the Criminal Investigation Division of IRS shows:

-- the higher ups at IRS stole the Kingspoint properties from Lieberman and arranged to hustle Belavia quickly into prison; that the IRS officials stole the properties for their own personal benefit and caused certain related land title records to disappear as part of a cover up. As shown in Case No. 92 C 7048, in Chicago Federal District Court.

-- that the IRS was instrumental in covering up the disappearance of 50 million dollars, parked by federal authorities with Household Bank -- on which Joseph Andreuccetti has a long-pending claim -- and that the money was secretly transferred to Little Rock in an attempt to cover up some 47 million dollars reportedly embezzled by Bill and Hillary Clinton from Madison Guaranty S&L in Little Rock.

-- that the Bankruptcy Trustee in the Andreuccetti cases, Jay A. Steinberg, has been allowed and permitted to file false and fraudulent state and federal revenue forms and tax returns, supposedly in the name of Joseph Andreuccetti, without the knowledge or consent of Andreuccetti.

5. Steinberg is a partner in the huge law firm of Hopkins & Sutter, major counsel for RTC. The firm arranged for two faraway lawyers -- Hillary Rodham Clinton and Vincent W. Foster, Jr. -- to work on the left-over problem of a Chicago-area savings and loan whose collapse was caused by fraudulent bonds by Clinton's dope and bond broker crony, Dan Lasater. Hillary and Vince reportedly whitewashed hundreds of millions that could have been recovered by RTC. Hopkins and Sutter also arranged to have George Bush's son escape prison in the Silverado S&L scandal in Denver.

60 MINUTES {H.I.V. POSITIVE, WITNESS FOR THE PROSECUTION} {INCOMPLETE} (TV)

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SUMMARY

A portion of one in this series of news magazine programs. In the first segment, "H.I.V. Positive," Ed Bradley tells the story of Charlene Riling, a lesbian, misdiagnosed as being H.I.V. positive by a deeply religious counselor who was affiliated with a group called "Hope Ministries," which promises to cure people of their homosexuality. Riling became very ill from the anti-AIDS drug cocktails she was prescribed, and she tells Bradley that she lost her job, family, and dignity as a result of the misdiagnosis. She is suing the doctor, viewers learn. The doctor's lawyers deny that their client misdiagnosed Riling out of bigotry about her sexual orientation, but independent doctors interviewed state that a standard, more complete series of tests would have revealed that Riling was simply suffering from colitis and a sinus infection. At the end of the segment, both sides prepare to go to trial.

In the second segment, "Witness for the Prosecution," Steve Kroft reports on the complex connection between star Assistant United States Attorney Bill Hogan and the El Rukn street gang of Chicago, which that city's Sun Times newspaper has dubbed "infamously brutal." According to Hogan's critics, Hogan was so eager to bust the street gang apart that he paid little or no attention to proper conduct in dealing with witnesses. After Hogan had captured many members from the gang's upper echelons, he convinced one of them to turn state's witness against his fellow gang members. Kroft interviews the El Rukns' public defenders, who claim that Hogan's star witness, Henry Harris, was given special treatment when he was working with Hogan on the case against the gang. When Kroft goes to Harris, who was eventually displeased with the deal struck for him, Harris verifies the claims, stating that he was allowed access to pornography, alcohol, long-distance phone calls, and conjugal visits when working with Hogan. Kroft accuses Harris of saying whatever he has to say to stay out of prison, but Harris avers that nothing he says about the case has an effect on him personally at this point.

In the final segment, Andy Rooney offers a humorous riff on why the American people want their country ruled by Republicans.

Cataloging of this program has been made possible by the Bell Atlantic Foundation, 2000.

DETAILS

NETWORK: CBS
DATE: January 1, 1995 Sunday 7:00 PM
RUNNING TIME: 0:43:01
COLOR/B&W: Color
CATALOG ID: T:63158
GENRE: News magazine
SUBJECT HEADING: Actions and defenses
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COMMERCIALS: TV - Commercials - McDonald's fast food^TV - Commercials - Cadillac automobiles^TV - Commercials - Purina cat chow^TV - Commercials - Energizer batteries^TV - Commercials - Citrucel diet supplement^TV - Commercials - Sears department stores^TV - Commercials - Nestle Sweet Success diet beverages^TV - Commercials - Sprint long distance service

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Judge Reverses 3 Convictions In Gang Cases

By DON TERRY,
Published: June 5, 1993

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CHICAGO, June 4— After working for more than 20 years to smash El Rukns, one of the city's most powerful street gangs, local and Federal prosecutors reveled in their victory over the gang two years ago, when dozens of El Rukns and their associates were convicted or pleaded guilty on the testimony of gang leaders turned Government witness.

But today, in a blistering 137-page decision, a Federal judge granted three of the defendants a new trial, citing a long and "disturbing" list of prosecutorial misconduct. The three defendants, Tom Burnside, Codell Griffin and C. D. Jackson, were not members of El Rukns but were convicted of supplying the gang with drugs.

Today's ruling could be only the beginning of a highly embarrassing set-back for Federal prosecutors here. Another round of hearings involving high-ranking gang members is to resume later this month. Sharp Criticism of Prosecutors

The convictions began to unravel after defense lawyers raised the question of prosecutorial misconduct in post-trial hearings before three Federal judges.

Today Judge James F. Holderman of Federal District Court said in his decision that prosecutors had repeatedly ignored and withheld potentially damaging evidence that their witnesses were using drugs while in custody, even on occasion while in the offices of the United States Attorney in Chicago.

The judge said the drug use by the witnesses was "impeaching evidence" that could have tainted their testimony and that, as such, it should have been disclosed to defense lawyers who could have used the information to discredit the witnesses before the jury.

Prosecutors have denied the misconduct charges during weeks of post-trial hearings. Reading from a prepared statement today, Michael J. Shepard, the United States Attorney for the Northern District of Illinois, said that his office was "saddened" by Judge Holderman's ruling but that he could not comment further because of a pending investigation.

The Federal Department of Justice's Office of Professional Responsibility is investigating the matter, which has been removed from the the United States Attorney's office in Chicago. John A. Smietanka, the United States Attorney for the Western District of Michigan, is now in charge.

At the center of the storm is William Hogan, the lead prosecutor on El Rukns cases, who at one point after the convictions was dispatched to Los Angeles to share his gang-busting tactics with the authorities there. In his statement, Mr. Shepard said Mr. Hogan had an "unblemished and longstanding record of outstanding public service."

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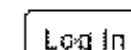
Log In | Register Now 
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But the judge said that on at least one occasion, Mr. Hogan had apparently dismissed a colleague's concerns about the need to disclose the drug use. Allowed Visits With Wives

El Rukns cases offer a rare look at the sometimes murky relationship between prosecutors and their informers. For prosecutors, informers offer the detailed inside knowledge to bolster a prosecution involving gangs, guns and drugs. And for cooperative informers, most of whom face long sentences of their own, prosecutors can offer attractive plea agreements.

Judge Holderman said prosecutors had failed to disclose certain "benefits" given to the witnesses, which might have been relevant in determining their motivation for testifying, and their credibility."

For example, he said, the witnesses were allowed contact visits with their wives or girlfriends while in a Federal jail in downtown Chicago, a violation of jail policy. Complaining about lax security at the jail, the judge said the women were rarely searched before seeing the men and may have used the visits to smuggle cocaine, marijuana and heroin into the jail.

One witness, Harry Evans, was caught engaging in a sexual act during a contact visit with his common-law wife, the judge wrote. His visiting privileges at the jail were revoked, the judge said, but Mr. Evans subsequently had contact visits with his wife at the United States Attorney's Office.

Judge Holderman said the authorities had also granted the witnesses unheard of and "especially troubling" telephone privileges. "In light of the evidence indicating that the witnesses received drugs from outside sources," the judge wrote, "the court can only infer that the El Rukn cooperating inmate witnesses utilized their telephone privileges to contact their illegal drug suppliers at taxpayer expense."

The inmate witnesses became so bold that some even answered the telephones in the office of a special Government task force, in some cases pretending to be Federal agents.

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Two decades after scandal, prosecutor testifies in defense of El Rukn case

By **Jason Meisner**
Chicago Tribune

DECEMBER 9, 2016, 7:50 PM

William Hogan Jr.'s career as a federal prosecutor has long been linked to the landmark El Rukn trials that ended in controversy two decades ago over allegations that cooperating witnesses had used drugs in jail, stole sensitive prosecution papers and had sex in government offices.

At the time a rising Justice Department star, Hogan was fired from his job after the bombshell allegations surfaced. But he fought hard to clear his name, and two years later was ordered reinstated to his post at the U.S. Attorney's Office by an administrative judge who found no convincing evidence of wrongdoing on Hogan's part.

Now, some 20 years later, Hogan took the witness stand in a federal courtroom Friday to tell a jury about his stewardship of an El Rukn prosecution that decimated the gang's leadership.

Hogan's testimony came in the trial over a lawsuit alleging former El Rukn general Nathson Fields was framed by Chicago police in a notorious 1984 double murder.

Using a sometimes contentious tone, Hogan, 65, now in his 36th year as a federal prosecutor in Chicago, denied he had any knowledge of the drug use or sexual misbehavior by several cooperating witnesses. Either way, he said, "it had nothing to do with the prosecutions."

Hogan said the prosecution documents that were found in a cell at the Metropolitan Correctional Center had been inadvertently snatched up by cooperating witness Derrick Kees during a visit to Hogan's office. The documents were recovered a short time later and did not contain anything that would have affected the witnesses' testimony, he said.

"It was no big deal," Hogan told jurors.

During a heated cross-examination, Hogan bristled when Fields' attorney, Jon Loevy, questioned him about a grand jury statement from another cooperating witness that erroneously stated Fields had taken part in another double murder.

Hogan testified he had neglected to remove the reference to the homicides before submitting El Rukn general Earl Hawkins' final 36-page statement. When Loevy tried to pin him down, Hogan said the statement was corrected as soon as the error was realized. He also quibbled with whether it was false in the first place.

"Isn't it true you were feeding false information into a grand jury statement?" Loevy asked.

"That's ridiculous," Hogan said.

"It's false, isn't it?" Loevy countered.

"No," Hogan said. "It's incorrect. There's a difference. It's a mistake."

Fields' double murder conviction and death sentence were tossed after it was revealed the judge in the case had accepted a bribe. After Fields was exonerated in a 2009 retrial, he filed the suit claiming police had buried a "street file" in his case to hide evidence helpful to him.

Attorneys for the city, however, have long maintained that Fields was guilty of the murders and vehemently denied that any damaging evidence was concealed from the defense.

It's the third time that Fields' lawsuit has gone to a jury. The first ended in a mistrial in 2014. The verdict in the second trial was overturned after the judge decided jurors should have heard evidence that Hawkins — an El Rukn hit man who admitted to at least a dozen killings — was expecting to be freed from prison years early in exchange for his testimony.

After the trial, it was revealed that Hogan and others involved in the case had written glowing letters to the parole board about Hawkins and his cooperation — although lawyers for the city have presented evidence that prison officials had already granted Hawkins' release before they read them.

Meanwhile, as Fields' third trial was getting underway last month, the U.S. Attorney's Office filed an unusual motion asking a federal judge to reduce Kees' federal racketeering sentence from 25 years to 12 years because of his anticipated testimony against Fields. Last week, Kees testified that his agreement could mean he'll gain freedom next year.

On Friday, Hogan was asked repeatedly about how Kees, in a bid to get out of his federal plea deal in 1994, alleged Hogan had cut a side deal promising him he'd serve less time. In response, prosecutors wrote that Kees' false allegations ruined his credibility as a trial witness. The move made headlines in Chicago and added to the fallout in the El Rukn prosecutions.

But Hogan testified Friday that he'd never seen Kees' motion to withdraw his guilty plea and that he'd only recently read his own office's response.

"The first time I read it was two weeks ago," he said.

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This article is related to: Crime, Trials and Arbitration, U.S. Department of Justice

Latest deal for El Rukn hit man could mean his early freedom in 2017

El Rukn operated out of this heavily fortified former movie theater called the "fort" in the 3900 block of South Drexel Boulevard in the Oakland neighborhood in the 1980s. (Chicago Tribune)

By **Jason Meisner**
Chicago Tribune

NOVEMBER 30, 2016, 6:51 PM

Two decades ago, federal prosecutors assured a judge that El Rukn hit man Derrick Kees would effectively spend the rest of his life behind bars.

Happy, fearful witness

But Kees, who admitted to participating in at least 20 slayings, has been cutting deals with the government ever since. In exchange for breaks on his state and federal sentences, Kees testified in the landmark El Rukn trials of the 1990s that decimated the gang's hierarchy as well as the sensational trial of a Cook County judge who took a bribe to fix the murder case of two of Kees' associates.

ADVERTISING

On Wednesday, Kees, now 59, told a federal grand jury that his latest agreement with federal prosecutors could mean he'll taste freedom next year — as much as 17 years early.

"Believe me, I wanted time served," Kees told jurors.

The revelation came during Kees' testimony in the civil lawsuit filed by another former El Rukn member, Nathson Fields, who claims he was framed in an infamous 1984 double murder that sent him to death row.

Earlier this week, U.S. District Judge Rebecca Pallmeyer approved an unusual motion by the U.S. attorney's office asking her to cut Kees' 25-year federal racketeering conspiracy sentence to 12 years in prison in exchange for testifying that Fields was, in fact, guilty of the murders.

That agreement meant Kees would've been released in 2021. But on Wednesday, he testified that because his sentence falls under the old federal rules of parole, with good-time credit he believed his "out" date could come as early as 2017.

It's the second time in less than two years that prosecutors have gone to bat for an imprisoned El Rukn hit man in exchange for testimony in Fields' civil proceedings. While commonplace in criminal cases, it's highly unusual for federal prosecutors to cut deals with prisoners in exchange for testimony in a civil trial.

In December 2014, the Tribune first reported that Earl Hawkins, a former El Rukn general once described by prosecutors as a "trained killer," was quietly released from prison at least 10 years early after he testified against

Fields at a hearing over his petition for innocence as well as at the first trial over Fields' lawsuit.

The jury in the first trial, which awarded Fields $80,000 in damages, had not been told of the release, a key reason why U.S. District Judge Matthew Kennelly overturned that verdict and granted Fields the new trial now underway.

Hawkins, now in witness protection, testified this week that he and Fields and two other El Rukn soldiers, acting on the orders of imprisoned gang leader Jeff Fort, had executed gang rivals Jerome "Fuddy" Smith and Talman Hickman as they walked though the breezeway of a South Side public housing high-rise.

On Wednesday, Kees reiterated what he'd said numerous times before — that he had helped plan the Smith and Hickman murders and that after they were carried out, Fields reported to him that it was "a good exercise."

In intense questioning, Fields' lawyer, Jon Loevy, repeatedly asked Kees about his deals with prosecutors over the years. Kees acknowledged "there were discussions" with the government about what benefit he might receive for his latest testimony, but he denied he was willing to lie to win his freedom.

"I'm not gonna lie under any circumstances," Kees said. "I don't have to."

Kees told jurors he'd killed people but said he didn't know how many. At one point, Loevy turned to Kees on the stand and asked bluntly, "You're a serial killer, are you not?"

"No," Kees replied.

"Are you a sociopath?" Loevy said.

"No," Kees again replied.

Kees was first convicted in 1988 in state court in the machine-gun slaying of El Rukn rival Willie "Dollar Bill" Bibbs outside a bar and sentenced to 55 years in prison.

Facing even more time in a federal racketeering case, Kees began cooperating with authorities in 1989 and wound up testifying for the government at six of eight El Rukn trials, as well as the trial of drug dealer Alexander "Ghost" Cooper, who was convicted of killing a federal informant.

But it was his testimony at the trial of Circuit Judge Thomas Maloney that garnered Kees the most attention. Maloney had pocketed $10,000 from the gang to acquit Hawkins and Fields of the 1984 double murder, only to return the money and convict them when he suspected the FBI was onto the bribe.

Maloney was later convicted himself and sentenced to nearly 16 years in prison.

Fields, meanwhile, had his case overturned because of the scandal and was found not guilty in a 2009 retrial. His lawsuit alleges two Chicago police detectives framed him for the Smith and Hickman murders, burying

evidence that could have been used at his trial in a secret "street file" that was found decades later in an old filing cabinet.

While historic, the El Rukn cases were also fraught with allegations of misconduct by the U.S. attorney's office. Several convictions were reversed after it was alleged that former gang leaders cooperating with the government received clothing, money and other gifts, obtained drugs and even had conjugal visits with their wives in federal offices.

In 1995, Kees tried to get out of a plea deal calling for a 99-year federal sentence after he said Assistant U.S. Attorney William Hogan, the lead prosecutor in the case, had cut a side deal promising him he'd serve less time. Hogan contended Kees wasn't given any promises outside the written plea agreement that called for, in effect, a life sentence.

U.S. District Judge Marvin Aspen ultimately ruled that while he didn't believe Hogan's courtroom denials about the deal, he said there wasn't enough evidence to corroborate the assertions by Kees.

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Jury awards $22 million in damages to wrongly convicted ex-El Rukn

Jason Meisner and Elyssa Cherney Contact Reporters

A federal jury on Thursday awarded a whopping $22 million in damages to a former El Rukn gang member who alleged two Chicago police detectives framed him for an infamous 1984 double murder that sent him to death row.

The Tribune has chronicled the case in several front-page stories over the past two years, detailing how Nathson Fields' "street file" was found in 2011 buried in an old filing cabinet with hundreds of other homicide cases in a South Side police station basement.

After two and half days of deliberations, the jury found that Sgt. David O'Callaghan and Lt. Joseph Murphy violated Fields' civil rights by withholding critical evidence from defense attorneys that could have pointed away from him as the killer.

The jury also found that at the time Fields was arrested and charged, the city had a pattern and practice of keeping the secret street files in homicide investigations even though the practice was supposedly abolished in 1983.

In what is believed to be one of the largest awards in a wrongful conviction case in Chicago history, the jury held the city liable for $22 million in damages and also assessed punitive damages against the officers — $30,000 for O'Callaghan and $10,000 for Murphy, money that each might have to pay himself.

In a brief statement Thursday, a spokesman for the city's Law Department said the city was "disappointed" by the verdict and would appeal. O'Callaghan's lawyer, Shelly Kulwin, said he was "deeply disappointed." Attorneys for Murphy could not be reached.

At a news conference hours after the verdict, Fields grew teary-eyed as he stood with his family and attorneys at the Near West Side offices of Loevy & Loevy, reflecting on his time on death row and how close he had come to being executed for a crime he didn't commit.

Fields recalled the suffocating feeling of being locked in a 5-by-7-foot cell so confined that he could "touch all the walls" if he stood in the middle. He also spoke of the despair of watching fellow death row inmates lose their lives to stress and witnessing others being marched to their execution.

"I had times that I was under so much stress I didn't think I could take anymore, so this day is very humbling, and I'm so happy," Fields told reporters.

While he said the jury verdict brought him closure, he said he regretted his mother wasn't still alive to witness it.

His lawyer, Jon Loevy, said the jury awarded more than the $18 million he sought — $1 million for each of the 18 years Fields spent in prison.

Loevy said police kept street files on at least another 400 defendants, but it was impossible to say how many of them had been wrongly convicted.

"Not only is Nate a victim of a wrongful conviction ... there are other guys, too, in prison who are there because ... that exculpatory evidence was withheld from them," he said.

This marked the third trial for Fields over his lawsuit, which was originally brought by attorney Candace Gorman who uncovered much of what became the crucial evidence in the case.

The first ended in a mistrial in 2014. In the second trial, a jury awarded him only $80,000 in damages. But the verdict was overturned after U.S. District Judge Matthew Kennelly decided jurors should have heard evidence that Earl Hawkins, an El Rukn hit man who was a key witness for the city and police, was expecting to be freed from prison years early.

After the trial, it was revealed that police detectives and prosecutors involved in the case had written glowing letters to the parole board about Hawkins and his cooperation — although lawyers for the city have presented evidence that prison officials had already granted Hawkins' release before they read them.

Last month, as Fields' latest trial was getting under way, the U.S. attorney's office filed an unusual motion asking a federal judge to cut the 25-year prison sentence of convicted El Rukn killer Derrick Kees to 12 years because of his anticipated testimony against Fields. Earlier this month, Kees testified that his agreement could mean he'll gain freedom next year.

While commonplace in criminal cases, it's highly unusual for prosecutors to cut deals with witnesses in exchange for testimony in civil proceedings.

Attorney Leonard Goodman, who represented Fields in a failed petition for a certificate of innocence, told the Tribune last month that unless there's a bona fide public safety reason to negotiate for a prisoner's release, such deals are tantamount to bribery.

"I've never seen it," Goodman said. "What possible public safety reason could there be in a civil trial to be letting serial killers out of prison?"

The stunning verdict marks the latest twist in the nearly four-decade legacy of El Rukn prosecutions that decimated the leadership of one of the more flamboyant and murderous street gangs in Chicago history.

Led by kingpin Jeff Fort, El Rukn operated under cover of a so-called religious organization out of a heavily fortified former movie theater called the "fort" that once stood near Pershing Road and Drexel Avenue.

Even after Fort went to prison, he ran El Rukn from behind bars, participating by phone in weekly meetings of his leadership team, according to testimony.

While widely hailed as a triumph, the prosecution ultimately exploded in controversy and scandal. Numerous convictions were reversed after it was alleged that several gang leaders cooperating with the government — including Hawkins — had received perks while in custody, ranging from drugs and clothes to conjugal visits in federal offices.

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"The first time I read it was two weeks ago," he testified.

Fields and Hawkins were originally convicted of the 1984 slayings of Talman Hickman and Jerome "Fuddy" Smith, a leader of the rival Black Gangster Disciples' Goon Squad who Fort believed was encroaching on El Rukn drug territory.

But Circuit Judge Thomas Maloney, who presided over the bench trial, was later convicted of pocketing $10,000 to fix the case, only to return the money in the midst of the trial when he suspected the FBI was onto the bribe. Maloney instead convicted Hawkins and Fields and sentenced both to death.

While on death row, Hawkins began cooperating with investigators, eventually testifying against dozens of gang leaders as well as Maloney, who was convicted in 1993 of fixing several murder cases, including that of Hawkins and Fields.

Hawkins pleaded guilty to lesser charges of armed violence in exchange for a 78-year sentence and a promise to testify against Fields at his retrial. During the 2009 retrial, Hawkins said he saw Fields fire the five shots that killed Hickman. But Judge Vincent Gaughan acquitted Fields of both murders, ripping Hawkins as an unreliable witness who had admitted to the murders of 15 to 20 people during his days as an El Rukn soldier.

"If someone has such disregard for human life, what regard will he have for his oath?" Gaughan said in finding Fields not guilty.

After the acquittal, Fields filed a petition for a certificate of innocence to clear his name and allow him to recoup money from the state for his wrongful imprisonment. But county prosecutors strenuously fought back. To prove that Fields was the actual killer, they made unusual deals with Hawkins and Kees to testify at the civil hearing — not a criminal proceeding where such maneuvering is commonplace.

Then-Presiding Judge Paul Biebel denied the certificate of innocence for Fields based on that testimony.

The controversy over buried street files first erupted in 1983 when Detective Frank Laverty blew the whistle during a trial for the killing of a 12-year-old girl. Incensed that the prosecution was going forward despite evidence that defendant George Jones was innocent, Laverty turned his street file over to defense attorneys in the middle of the trial. The charges against Jones were dropped.

Laverty, a veteran homicide detective, was demoted to overseeing urine tests for recruits at the police academy, but his whistle-blowing wasn't for naught. After Jones successfully sued the police for railroading him, police issued a new general order doing away with street files and instituting what are called general progress reports in which detectives' notes and other updates on the investigation are typed into a form that is inventoried and subject to subpoena.

But Fields' trial has shown that the use of street files by Chicago police didn't end. The hundreds of files found in the Wentworth Area basement never should have been there at all. In fact, all homicide files older than 10 years were supposed to be placed in the Police Department's permanent records division, where they would be subject to subpoena.

Discovered in Fields' street file were handwritten notes about alternate suspects from early in the investigation as well as lineup cards that were not included in the information turned over to Fields' criminal defense attorneys.

In his closing argument Monday, Loevy said the information that was withheld was "maybe only five pages total," but that it could have meant the difference between exoneration and death row for Fields.

"It's not that it's a ton of paper," Loevy told the jury, holding up the 6-inch-thick, fading Manila folder that contained Fields' street file. "But it's important paper."

Segal prosecutor heading to Afghanistan to build legal system
Chicago Sun-Times (IL)
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Author: Eric Herman
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One of Chicago's best-known federal prosecutors is heading to Afghanistan.

William Hogan, who helped convict insurance mogul Michael Segal of fraud and racketeering earlier this year, will spend a year in the war-torn country as the U.S. Justice Department's representative. As legal adviser to U.S. ambassador Zalmay Khalilzad, Hogan will help the Afghans lay the groundwork for a new legal system, he said.

"I feel pretty strongly that it's something that absolutely needs to be done. It's critically important for our national security, and the world's, that democracy take root there," Hogan said.

Hogan, 53, rose to prominence as the hard-hitting prosecutor who convicted 56 members of the El **Rukn** street gang in the late 1980s and early 1990s. But those cases almost became Hogan's undoing when it was alleged he concealed positive drug tests of two cooperating witnesses, and allowed a paralegal to engage in phone sex with a witness. The El **Rukn** cases collapsed, and judges ordered new trials for 15 of the defendants.

In 1996, the Justice Department fired Hogan. But he insisted he had done nothing wrong, and after a protracted legal fight, Hogan won his job back in 1998. An administrative judge cleared him of the charges. Meanwhile, the El **Rukn** defendants who got new trials all pleaded guilty or were re-convicted.

Since returning to the U.S. Attorney's office, Hogan has prosecuted insurance scam artists and a developer charged with fraud, as well as Segal. A source with knowledge of the prosecutor's office said Hogan came close to taking an early retirement recently, but changed his mind. In going for the Afghanistan assignment, Hogan had the backing of U.S. Attorney Patrick Fitzgerald, who is said to admire Hogan's tenacity.

In Afghanistan, Hogan expects to focus on drug trafficking. Since the U.S. toppled the Taliban, opium production in Afghanistan has skyrocketed, rising 64 percent in 2004 alone, according to the United Nations. Traffickers process much of the opium into heroin.

"Everybody recognizes that it's a major, major problem," Hogan said.

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The merger of Exelon Corp. and Newark, N.J.-based Public Service Enterprise Group Inc. will create a mega-utility company with $79 billion in assets. It will also bring in

In early June, Holderman ordered new trials for three alleged **Rukn** drug suppliers. He ruled that lead prosecutor **William Hogan** Jr. knew that key witnesses Henry Harris and Harry Evans tested positive for drugs while in federal custody in 1989 and never gave defense attorneys the test results.

Hogan has steadfastly denied seeing a 1989 memo outlining **Rukn** drug use, but Holderman ruled that he must have seen it by 1991, when defense attorneys requested the information.

In mid-June, Conlon threw out three more El **Rukn** convictions based on prosecutors' failure to disclose that witnesses tested positive for drugs and were given special favors in 1989.

Meanwhile, as evidence against the government mounted, Aspen, who presided over one trial, began hearings in May.

Granted immunity from perjury prosecution, ex-**Rukn** general Henry Harris, the government's most important witness in the prosecutions, told Aspen in June that he had sex with his wife and girlfriend 15 times at the Kluczynski Federal Building while preparing his trial testimony in 1988 and 1989.

He also testified that he perjured himself repeatedly during the trials, was coached to lie by Hogan, and was coached by Hogan to use "lawyer's language" when translating federal wiretaps of **Rukn** phone conversations. Turncoat Eugene Hunter also told Aspen that he had sex with his wife in federal buildings.

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