



Judge and Jury

Judge Lazarus takes justice into his own hands in the Keith Wasserstrom trial

By Bob Norman

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Joel T. Lazarus is a powerful guy. He isn't just a Broward Circuit judge; he's also a jury. And on Monday, he single-handedly did more to damage anticorruption efforts in his county than just about any man ever has.

Lazarus is the judge in the corruption trial against Keith Wasserstrom, a former Hollywood commissioner. Wasserstrom used the power of his office to help a sewage company to which he was allegedly financially tied get a lucrative contract in his city.

That much is uncontested fact and the lurid details smell worse than the sludge involved in the city's contract. But after the prosecution and the defense rested Monday, Lazarus threw out the key felony charge against Wasserstrom, saying the unlawful-compensation case against him was "circumstantial."

In doing so, the judge not only subverted a fundamental American legal principle, the jury trial, but also the opinion of a much higher power the Florida Supreme Court.

After Lazarus made the stunning move, I questioned the judge about it outside the courtroom.

"Did you make the decision to take this case out of the jury's hands lightly?" I asked him.

"What?"

"Are you a judge or are you both the judge and jury?"

I kind of like to have fun with judge types, especially when they trash the public trust. This case was somewhat more important than most to me since I'd broken the story about Wasserstrom's connection to the sewage company in the first place. I got his attention, but Lazarus wasn't having it.

"I'm not going to answer these questions."

He started to walk into his office.

"Do you know about the Florida Supreme Court opinion that says that circumstantial evidence is enough to prosecute unlawful-compensation cases?"

"I felt there was insufficient evidence," he answered. "Are you saying that the Supreme Court said these cases could rely on circumstantial evidence?"

"The court said that circumstantial evidence is sufficient to prosecute corruption cases."

"That's your opinion."

"No, that's the Supreme Court's opinion."

He said "thank you," and as he walked off, it struck me that the judge actually must not have known about the ruling.

On April 22, 2004, the Supreme Court ruled that cases like the one involving Wasserstrom are nearly impossible to prosecute if direct evidence of a corrupt agreement is required. Demanding that prosecutors provide explicit proof of a nefarious deal "imposes too high a burden on the state and would prohibit prosecution of all but the most blatant violations," Justice Raoul Cantero wrote.

In other words, in the world of backroom deals involving cunning public officials, prosecutors need only to show that the politician corruptly used his office in a way that would contribute to his financial gain.

Here's how Cantero put it:

"Public corruption has become sophisticated enough... to expect that public officials soliciting or accepting unlawful compensation ordinarily will not be so audacious as to explicitly verbalize their intent."

Count Wasserstrom among those who lack that audacity, but his intent was made loud and clear at trial. Here are some key facts established at trial:

In 2003, representatives of a sewage company called Schwing Bioset met with Commissioner Wasserstrom to try to get him to help them win a wastewater treatment contract with the city. After the meeting, Wasserstrom met with his uncle, Arnold Goldman of Miami, and encouraged him to contact the company and become a lobbyist for them. (Forget that Goldman was neither a lobbyist nor knew anything about the sewage trade. He was in the roofing business.)

The company hired Goldman as a lobbyist. Then Wasserstrom and his uncle made a side deal to split half the money he made. Goldman, of course, had no entry into governments, while his political nephew did. As Goldman explained on the witness stand, "There are people in this world who are connectors. Mr. Wasserstrom knows many people." And the uncle also admitted that he thought the sewage business was going to be "unbelievably lucrative" for the two.

The contract specified that Wasserstrom wouldn't make any money in Hollywood. But after signing the contract, the commissioner manipulated his city to choose Schwing Bioset, even though it was ranked last by the city's evaluation committee and cost twice as much as the top-rated company, Florida N-Viro. He set up meetings between company reps and Hollywood officials, cajoled his fellow commissioners to vote for the company, and basically did everything he could to get the company the contract.

Goldman testified that he and Wasserstrom believed at the time that securing the Hollywood contract was crucial for them to get other municipalities including Fort Lauderdale, Pembroke Pines, Coral Springs, and Miami-Dade to "piggyback" on the contract and thus get paid millions of dollars by the company. He testified that they considered the delay in securing the Schwing Bioset contract in Hollywood "detrimental" in their efforts to sell the company elsewhere.

One example of a Wasserstrom dirty trick came when he wrote Goldman an e-mail titled "The Winning Argument," explaining how to get his fellow commissioners to vote for Schwing Bioset. Goldman then cut and pasted the argument onto an e-mail and sent it to Wasserstrom's fellow commissioners. To disguise the source, he put it under the name of his daughter, Jennifer Fox. I'm not even going to get into how Wasserstrom and his co-conspirators who included the commissioner's law partner Stacey Giuliani and his mother, Hollywood Mayor Mara Giuliani

tricked the city into believing they had an agreement to put the treated sludge on land owned by the Seminole Indians. They didn't.

The corruption was blatant and obvious, yet Lazarus, in his wisdom, determined after hearing the evidence that Wasserstrom should be "presumed innocent."

He may have been swayed by the specious arguments made to the jury by the defense.

Wasserstrom attorney Milton Hirsch argued that because Wasserstrom never actually made any money, not "one shiny penny," as he said over and over, that his client wasn't guilty of receiving unlawful compensation.

The law, however, doesn't require that Wasserstrom receive any money, only that he solicit it, which he did via the contract with Goldman.

Much was also made by the defense (and parroted by the *Sun-Sentinel* and *Miami Herald*) about other irrelevant arguments. For instance, a former Hollywood bureaucrat, Windol Green, testified that other cities couldn't have piggy-backed on the Hollywood contract. While Green's assertion is dubious, it means nothing. The important thing was that Goldman and Wasserstrom believed that piggybacking was crucial to their efforts to make their money. Again, the *intent* is all that matters in the eyes of the law, and that was well-established.

Wasserstrom played an obvious shell game. Giving legal validity to the scheme basically amounts to legalizing corruption so long as a politician claims that he was being paid by special interests for work he's done outside his respective governmental body.

As the Florida Supreme Court had guessed, Wasserstrom was not "so audacious as to explicitly verbalize his intent." But the necessary circumstantial evidence was there in spades. Were this case handled by federal authorities, Wasserstrom wouldn't have stood a chance.

The question that will never be answered is whether the jury would have convicted Wasserstrom on the second-degree felony charge (which is punishable by up to ten years in prison). My feeling, after attending the trial and paying close attention to the proceedings, is... maybe. The facts were on the prosecution's side, but you had to be there to understand the power of Wasserstrom's shameless charade, which was led by ringmaster Hirsch.

A short man with a beard and a pugnacious face, Hirsch quickly distinguished himself from prosecutor Tim Donnelly. On the first day of the trial alone, he quoted freely from Abraham Lincoln, Shakespeare, and Perry Mason. An example came when one of the potential jurors couldn't be heard: "There's a line in *King Lear*, 'Her voice was ever sweet and gentle and loving' I need you to speak up."

She and the rest of the jury pool were soon eating out of his hand. Hirsch, who has published a novel titled *The Shadow of Justice*, showed the ability that all great hucksters must possess: the knack for engaging an audience. The shameless Hirsch stood in a courtroom, but you could as easily imagine him on the side of the road selling snake oil to a rapt crowd.

But you had to think that even the jury could see through the farce Hirsch was creating when he said in his opening statement that Wasserstrom was doing "God's work" for the sewage company. To bolster the obscene idea that the commissioner was on a mission from God, Wasserstrom wore a yarmulke on his head the entire trial. And to make sure the jury got a load of what a family man he is, the former commissioner yanked his kids out of school and made them attend the first day of trial.

"I'm bored," his young son said at one point. "I'd rather be in school."

Making sure the jury was also bored was the prosecution team of Donnelly and Catherine Maus, who both played like a wet blanket on the proceedings. The competition between Hirsch and

Maus was reminiscent of Johnnie Cochran versus Marcia Clark. Style versus substance. Dry, dull, sometimes confusing substance.

In a quiet monotone, Maus' opening statement had no arc, no flourishes, no *meaning*. It was just a collection of names and meetings and facts, as if she'd memorized one of her own reports. She and Donnelly seemed to have a cloud over their heads, as if they were trapped in invisible, slowly hardening amber.

But I can't blame them for their lack of mojo. Their boss, State Attorney Michael Satz, is skittish when it comes to corruption. His office hadn't taken an elected official to trial since the Reagan era. If anything, Maus and Donnelly were courageous for bringing the case forward.

And Maus, who questioned all the witnesses, hit her stride in the middle of the trial. She jostled with Mayor Giuliani, who was ... well, *Mara*. She was sarcastic in her tone on the witness stand, almost leering, a combustible mixture of nervousness and hostility. No wonder. The mayor's son was Wasserstrom's law partner and was also working for the sewage company.

On the stand, the mayor was evasive about her own role but expansive about her supposedly good intentions. Maus gamely stood her ground and kept plowing away, showing how Giuliani and Wasserstrom plotted together via e-mails and meetings to get Schwing BioSet the contract. Several times, it devolved into near chaos as Giuliani talked over Maus and even Lazarus, who had to practically shout her down twice.

"Excuse me," Lazarus said politely at one point.

The mayor kept talking.

"Excuse me!" Lazarus snarled loudly, at which point a startled Giuliani finally stopped moving her gums.

After her testimony, Giuliani sat outside the courtroom talking on a cell phone about the trial. "I don't know about the prosecutor," she said. "She's real snitty, snippy. I don't think the jury is going to take to her. But Keith's attorney is, I don't know, warm. Much more personable. The judge is scary to me. He's stern... It was disconcerting. I don't want to be the star of the day."

In terms of the prosecution's case, she wasn't. Goldman was the state's gold mine. A bald man with a gray beard and bat-like ears, Uncle Arnold spilled the details about the dirty work done by both him and his nephew, with Maus backing it all up with e-mails and other documents she'd gathered during her two-year investigation.

Maus even got Goldman to admit that one of Wasserstrom's jobs was to go into neighborhoods where Schwing BioSet wanted a contract and solicit people to create an issue by complaining about the smell from sewage whether it was offensive or not. Talk about an odious occupation. Even after the scandal hit the news and the company severed ties with them, Wasserstrom kept pressing for money. Goldman testified that Wasserstrom told him, "You shouldn't take less than a million dollars for the work you've done." Half of that, of course, would have gone to Wasserstrom and his law firm.

The prosecutors must have thought Goldman was all they needed they rested after he was finished. Hirsch, who had promised the jury that Wasserstrom would testify, then rested without putting on a defense.

Then he made the motion for Lazarus to rule on the charges.

Donnelly looked properly dejected after the ruling.

"I was hoping we could at least get it to the jury and let them decide," he told me outside the courtroom.

All hope, however, wasn't lost for the prosecution. Yet.

Still remaining were four official misconduct charges related to public disclosure forms that Wasserstrom filed with his city. This column went to press before the jury's verdict, but I'm betting it'll follow the judge's lead and acquit him.

And that could lead to Wasserstrom's return to the commission. If that happens, he can thank a man named Lazarus for bringing his scandalous and morally bankrupt political career back to life.

Editor's note: Norman bet wrong: The jury convicted Wasserstrom of two counts of official misconduct.
