



After crime, punishment awaits ex-Gov. Blagojevich

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:28 AM December 6, 2011

Rod Blagojevich

The Associated Press (AP) on December 6, 2011 released the following:

“By MICHAEL TARM

Associated Press

CHICAGO (AP) — Rod Blagojevich’s days of reckoning arrive Tuesday when a federal judge opens a sentencing hearing for the disgraced former Illinois governor on 18 corruption counts, including trying to auction off President Barack Obama’s old Senate seat.

The impeached state executive-turned-reality TV star has good reason to feel anxious and afraid at the two-day hearing in Chicago. He faces the prospect of 10 or more years behind bars.

If Judge James Zagel settles on a sentence Wednesday of more than a decade, that would make it one of the stiffest penalties imposed for corruption in a state with a long history of crooked politics.

Prosecutors will ask Zagel to imprison the twice-elected governor for 15 to 20 years, arguing he has not only shirked all responsibility for his crimes but repeatedly thumbed his nose at the U.S. justice system.

Blagojevich has already paid a price in public ridicule and financial ruin, the defense argues in proposing a term of just a few years. They also seem bent on an approach judges often frown upon at the sentencing stage: Continuing to insist their client is innocent.

Both sides could finish their pitches to Zagel during Tuesday’s hearing, which was moved to a large ceremonial courtroom to accommodate expected crowds. But Zagel says he’ll wait until Wednesday to pronounce a sentence — possibly so he can sleep on it.

The 70-year-old judge, who played a judge in the 1989 movie “Music Box,” must answer nuanced questions according

Ivory Smuggler Pleads Guilty in New York

(USDOJ: Justice News)

Submitted at 11:59 AM December 6, 2011

Lin Feng Xu, 31, an antique dealer in China, has pleaded guilty to smuggling



to complex sentencing algebra, including whether any good Blagojevich accomplished as governor counterbalances the bad.

In describing the humiliation his family has faced, the defense cited Blagojevich’s appearances on NBC’s “Celebrity Apprentice,” where he struggled to use a cellphone, and his wife, Patti, eating a tarantula on the reality show, “I’m a Celebrity...Get Me Out of Here!”

After sentencing, Zagel will likely give Blagojevich weeks before he must report to prison. Once there, the man heard scoffing on FBI wiretaps about earning a low six-figure salary would have to take a prison job — possibly scrubbing toilets — at just 12 cents an hour.

Blagojevich’s sentencing comes just days before his 55th birthday and three years to the week of his Dec. 9, 2008, arrest.

The jury deadlocked in his first trial, agreeing on just one of 24 counts — that Blagojevich lied to the FBI. Jurors at his recent retrial convicted him on 17 of 20

and to violating the Endangered Species Act in connection with the illegal export of African elephant ivory in his carry-on luggage.

counts, including bribery.

Legal experts have said Blagojevich needs to display some remorse when, as expected, he addresses Zagel Tuesday or Wednesday. But the big unknown is whether the often cocksure ex-governor will beg for mercy at the hearing or yet again protest his innocence.

A flat-out apology isn’t always considered a must. If it isn’t sincere, it can only anger a judge.

The defense could call others to speak in court. But as Blagojevich became politically radioactive, longtime friends scattered, so it’s not clear who would be willing to speak for him now.

Wives often plea for leniency, but Zagel likely wouldn’t view Patti Blagojevich sympathetically. On FBI wiretaps, she was heard encouraging her husband’s bid for campaign cash or a top job in exchange for an appointment to Obama’s vacated seat.”

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U.S. v. Brian McKinzie

(Antitrust Division: Criminal Case Filings)

Submitted at 1:27 AM December 6, 2011

Document filed on November 23, 2011

• [Plea Agreement](#)



An Ex-FBI Official Explains Lack of Convictions Tied to Financial Crisis

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:04 AM December 6, 2011

The Wall Street Journal on December 6, 2011 released the following:

“By Joe Palazzolo

There was a time, after the financial crisis, when federal agents and prosecutors thought they had another savings-and-loan type situation on their hands. Those criminal probes in the 1980s and 1990s landed more than 1,000 bankers in prison.

But their hopes slowly gave way to frustration over how to prove criminal intent, according to David Cardona, who was a deputy assistant director at FBI until he left last month for a job at the SEC. “A lot” of the Justice Department’s criminal investigations “hinge on disclosure. . . . What does adequate disclosure mean? And those are really technical arguments that sometimes get lost with a jury,” Cardona told The Wall Street Journal’s Jean Eaglesham, offering one of the starkest explanations yet for the government’s track record in prosecuting possible wrongdoing tied to the crisis. “That’s what makes these cases difficult to charge many times. And that certainly was the case with” a criminal investigation into two collateralized debt obligations created by Goldman Sachs in

2007 that soon plummeted in value, he said. A spokesman for Goldman declined to comment.

Many of the FBI’s criminal probes stemming from the crisis have gone nowhere, including investigations of AIG, mortgage lender Countrywide Financial (now part of Bank of America), Washington Mutual and Goldman. The SEC, meanwhile, has filed crisis-related civil-fraud cases against 81 firms and individuals, and it has negotiated almost \$2 billion in penalties in cases that have been settled.

U.S. officials also are wary of bringing to trial criminal prosecutions where a jury might decide the losses were due to bad judgment or market conditions, not deceit. Cardona said the 2009 acquittal in the Bear Stearns case was part of a “learning curve on which cases we . . . feel we have the ability to convince a jury that criminality has occurred.”

Thus, cases that turn on technical issues such as disclosure are being left for civil-enforcement actions, he said. The SEC still is pursuing civil-fraud charges against the two former hedge-fund managers. Their lawyers declined to comment.

A Justice Department spokeswoman said, “We have brought hundreds of criminal cases for mortgage fraud, investment fraud and other white-collar crimes. When

we find evidence to prove beyond a reasonable doubt that a crime was committed, we will not hesitate to pursue criminal charges.””

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Feds Drop All Charges Against Motorcycle Gang

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:43 AM December 6, 2011

WGRZ.com on December 6, 2011 released the following:

“Why Did The Feds Drop All Charges Against Motorcycle Gang?”

Buffalo, N.Y. – When the government announced its case against the Chosen Few Motorcycle Club two and a half years ago, the charges sounded like something out of a crime movie.

It said the Chosen Few were in a “War against the Lonely Ones Motorcycle Club...”

That “there were three attempted murders and two attempted arsons...including firebombings in an attempt to kill an occupant of the Lonely Ones Clubhouse...”

All told, 19 current and former members were arrested.

The government had a former member of the Chosen Few as its informant, someone who was wearing a wire.



But on Friday, the government dropped all of the charges against the Chosen Few. It put out a one sentence statement on Saturday, which is typically a day to used to hide bad news from the media.

It said: “Our office moved to dismiss the presently pending indictment in light of information that recently came to light.” That information apparently was that the government’s informant had major credibility problems.

And that’s something that attorneys representing Chosen Few members had been hammering away at.

Defense Attorney Paul Cambria: “Well I think if anything is established as a result

of this process, it’s that informants or so called informants or cooperators, have to be thoroughly vetted. They’re not always the most credible and reliable, and sometimes it takes a process to expose that.”

Scott Brown: “Do you expect any of these charges to be re-filed?”

Paul Cambria: “I think under the circumstances it would be extremely difficult to resurrect the case based on what I believe and what I’ve learned, and of course I hope that doesn’t happen and this whole thing is put behind us.”

Two members of the Chosen Few, including its President had been in jail since the arrests were made two and a half years ago, they were released from prison Friday night.

2 On Your Side asked to interview U.S. Attorney William Hochul about why the charges were dropped, but we were told that Hochul was out of town and that the

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Key factors judge must consider in calculating Blagojevich's sentence

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:51 AM December 6, 2011

U.S. District Judge James Zagel
Chicago Tribune on December 5, 2011
released the following:

“The Associated Press

CHICAGO (AP) — In a hearing that starts Tuesday, U.S. District Judge James Zagel must answer several key, sometimes nuanced questions as he calculates a fitting sentence for ousted Illinois Gov. Rod Blagojevich on 18 counts of corruption. Most legal experts say Blagojevich is likely to get about 10 years, but Zagel has enormous discretion to give him much more or much less.

Among the questions:

— Has Blagojevich accepted responsibility or expressed remorse? To date, he has not. He could in a statement at sentencing, but signs are he may keep asserting his innocence by claiming aides led him astray — declarations judges frown upon at the sentencing stage.

— What harm did Blagojevich's crimes cause? The defense says Blagojevich didn't make a single cent off his schemes, some of which were attempts to extort money that failed. But Zagel could conclude his actions badly undermined public confidence in government.

— Did Blagojevich lie when he testified at his retrial? Federal judges can boost a sentence by years if a defendant testified and was subsequently convicted. In light of the jury's guilty verdicts, prosecutors

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only comment from his office would be the short statement that was put out on Saturday.”

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have urged Zagel to view Blagojevich's testimony as perjury.

— Did he lead the conspiracies? The top dog in conspiracies gets more time and prosecutors say Blagojevich was just that. Zagel must decide if he buys the defense argument that just because Blagojevich was a boss didn't mean he took the lead role in the schemes.

— Other crimes? It may come as a surprise to some that federal judges can consider actions not directly related to crimes for which a felon was convicted. Prosecutors want Zagel to factor in that Blagojevich started hatching schemes from the day he took office.

— Has he otherwise been beneficial to

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society? Judges can temper a sentence by considering good deeds. The defense cites Blagojevich's legislative accomplishments, including making health insurance widely available to Illinois children.

— Does the crime involve an elected official? Those, like Blagojevich, who commit crimes in their official capacity, are deemed to have violated the public trust. Judges consider that a major aggravating factor.”

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List of Blagojevich convictions, maximum sentences

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:45 AM December 6, 2011

Chicago Tribune on December 5, 2011
released the following:

“The Associated Press

CHICAGO (AP) — A judge will sentence former Illinois Gov. Rod Blagojevich on 18 counts of corruption this week. Jurors at his first trial last year deadlocked on all but one of 24 counts, convicting him only of lying to the FBI. At his retrial this year, jurors convicted him on 17 of 20 counts. Combined, the charges formally carry a maximum 305-year sentence, though he's likely to get closer to 10 years.

The convictions and maximum sentences



DB Cooper Case Solved? Witness Marla Cooper Says FBI May Soon Close Investigation

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 11:05 AM December 6, 2011

DB Cooper

Huffington Post on December 6, 2011 released the following:

“Forty years after a man in a suit commandeered a 727 jet and parachuted into the night carrying \$200,000, federal investigators may be close to cracking the only unsolved airplane hijacking in U.S. history.

The FBI could soon solve the mystery of DB Cooper, the man sought by authorities since the 1971 hijacking of a Northwest Orient Airlines flight from Portland to Seattle, according to a witness who has been described by the agency as credible, NWCN reports.

Investigators are currently attempting to link fingerprints left behind on the airplane with fingerprints obtained from the toothbrush of a man known as LD Cooper, the uncle of a tipster who contacted authorities with suspicions about her relative earlier this year.

Marla Cooper says her uncle was injured when he arrived at her family’s home in Sisters, Ore. the day after the hijacking,

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from the retrial are:

TEN COUNTS OF WIRE FRAUD, nearly all of which are related to the allegation Blagojevich tried to sell or trade President Barack Obama’s old Senate seat. Each count carries a maximum 20-year prison sentence.

ONE COUNT OF ATTEMPTED EXTORTION related to an attempt to shake down the CEO of Children’s Memorial Hospital for a campaign contribution. Maximum penalty of 20 years.

ONE COUNT OF SOLICITING A BRIBE in the shakedown of the children’s hospital executive. Maximum penalty of 10 years.

ONE COUNT OF EXTORTION CONSPIRACY for conspiring with an aide to shake down a racetrack executive. Maximum penalty of 20 years.

ONE COUNT OF BRIBERY



but he blamed his wounds on a car crash. “I knew he did it, it wasn’t speculation, I was there when he pulled into the driveway,” Marla Cooper told the news station.

LD Cooper died in 1999.

The hijacker bought his ticket under the alias “Dan Cooper,” but news reports misidentified his name as DB Cooper.

The FBI won’t comment on the specifics

CONSPIRACY, related to shakedown of the racetrack executive. Maximum five-year sentence.

ONE COUNT OF EXTORTION

CONSPIRACY, related to the Senate seat. Maximum penalty of 20 years.

ONE COUNT OF ATTEMPTED

EXTORTION, related to the Senate seat. Maximum penalty of 20 years.

ONE COUNT OF BRIBERY

CONSPIRACY, related to the Senate seat. Maximum of 5 years.

And from the first trial:

ONE COUNT OF FALSE

STATEMENTS, for lying to federal investigators about his fundraising.

Maximum of 5 years.”

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of the investigation, but Marla Cooper says a lead investigator informed her that the case was winding down.

“Regardless of the findings of the fingerprints, he told me the case was closing because they were certain my uncle did it,” she said, according to told the news station.

The agency recently confirmed that it has started conducting forensic tests on evidence including partial fingerprints that could be linked to the hijacking.”

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