

Will Prosecutors Finally Make Perjury Charges Stick Against Roger Clemens?

by Anthony Caruso on April 30, 2012

The perjury trial against Roger Clemens is again taking center stage in the arena of sports law. The trial represents the second attempt by prosecutors to convict Clemens on a number of charges related to his repeated denials of steroid use.

After his 2008 testimony before a U.S. House of Representatives committee contradicted the findings of the Mitchell Report on steroid use in Major League Baseball, Clemens was indicted and charged with perjury, obstruction of justice, and making false statements. However, the first trial came to an abrupt end last summer after prosecutors mistakenly allowed jurors to see inadmissible evidence and the judge declared a mistrial.

So far, the second perjury trial has proceeded as expected, although it is clear that both sides have used the extra time to bolster their arguments. Lawyers for Rodger Clemons continue to portray Clemons' former trainer Brian McNamee as an unreliable witness, looking only to capitalize on his accusations against Clemons. They also question the validity of the physical evidence, including needles and gauze, which McNamee allegedly preserved.

They also argue that Clemons is simply trying to clear his name. "God help me if we have reached a stage in this country where we make a federal case of denying you committed a crime," Attorney Rusty Hardin said in his opening statement.

Meanwhile, prosecutors characterize the former All-Star pitcher as a man "trapped in a web" of lies to cover up his actions. Lead prosecutor Steve Durham told the jury in his opening statement that "all Mr. Clemens had to do was tell the truth" to the committee, but instead he "wove a tangled web of deceit, betrayal and hurt" after being named in the Mitchell report.

Clemons' former teammate Andy Pettitte is expected to testify, but Judge Reggie Walton has already ruled that he will not be allowed to testify that he got his human growth hormone from Brian McNamee. Ultimately, the case will likely come down to the testimony of Clemons and McNamee, both of which have previously shown a history of "misremembering."

While Clemons clearly wants to clear his name in the court of public opinion, the case also has serious legal consequences. If the prosecution is successful in proving that just one of 15 specific statements he made before the U.S. House of Representatives is false, he could face 15 to 21 years in prison.

Of course, the case is just getting started. Along with my colleagues in Scarinci Hollenbeck's Sports and Entertainment Law Group, I will continue to provide updates and analysis as the trial progresses in the coming weeks.