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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) No. 08 CR 846
)
JON BURGE,) Chicago, Illinois
) January 21, 2011
Defendant.)

EXCERPT OF
TRANSCRIPT OF PROCEEDINGS - Sentencing - Judge's Ruling
BEFORE THE HONORABLE JOAN HUMPHREY LEFKOW

APPEARANCES:

For the Government: HON. PATRICK J. FITZGERALD
219 South Dearborn Street
Chicago, Illinois 60604
BY: MR. M. DAVID WEISMAN
MS. APRIL PERRY

DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION
CRIMINAL SECTION
601 D Street NW
Room 5339
Washington, DC 22314
BY: MS. ELIZABETH L. BIFFL

**NOTE: THIS IS A PARTIAL TRANSCRIPT. IN THE EVENT OF AN
APPEAL, PLEASE CHECK TO SEE IF A FULL TRANSCRIPT IS ON FILE.
IF ONE IS, USE THE PAGINATION OF THAT TRANSCRIPT.**

PAMELA S. WARREN, CSR, RPR
Official Court Reporter
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1 APPEARANCES: (Continued)

2 For the Defendant: MR. RICHARD MICHAEL BEUKE
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7 MR. MARC WILLIAM MARTIN
8 53 West Jackson Boulevard
Suite 1410
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9
10 ALSO PRESENT: Mr. Jason Christiansen
11 United States Probation Officer
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1 interrogatories, and you maintained that denial under oath in
2 this courtroom where you testified in your own defense.
3 Unfortunately for you the jury did not believe you, and I must
4 agree that I did not either.

5 My responsibility today is to impose a sentence that
6 is sufficient but not greater than necessary to comply with the
7 purposes of sentencing. The sentence is to be measured by the
8 need to reflect the seriousness of the offense, to promote
9 respect for the law, and to provide just punishment for the
10 offense or offenses.

11 Another purpose is to deter you and others like you
12 from criminal conduct. A third purpose is what we might call
13 rehabilitation, preparing you for reentry into society,
14 including training, medical care, and the like, which in this
15 case is not particularly applicable, other than the issue of
16 medical care.

17 All of this is to be considered in light of the nature
18 and circumstances of the offense and the history and
19 characteristics of the defendant.

20 I'll start with the nature and circumstances of the
21 offense. There are many in the community of which the
22 witnesses spoke yesterday, the African American community, and
23 others who support that community by speaking on their behalf,
24 that in light of the circumstances of the offense a sentence
25 within the guideline range of 21 to 27 months in custody would

1 be a mere slap on the wrist.

2 I have read letters and statements from many
3 individuals who were not called to testify at trial but wanted
4 to be heard. Those statements, and they have all been made
5 available to you, of course, those statements describe
6 brutality at your hands or those under your supervision or
7 command, some even more appalling than the torture the
8 witnesses here have testified about.

9 One remarkable thing about the statements was how many
10 came from outside the Chicago area. These people say they had
11 to leave Chicago because they were terrified that the police
12 would do this to them again.

13 One statement from a prisoner, however, will probably
14 haunt me the longest. This man reports that he has been in
15 prison for 30 years. He stated he was 17 when he was arrested
16 while walking down the street and brutally tortured until he
17 confessed to a murder. He said, I had the body of a man; but I
18 was a child inside.

19 He remains in prison for a crime he insists he did not
20 commit, being abandoned by family and friends who trusted that
21 the police would not have charged him had he not done the
22 crime.

23 The grandmother, who stood by him, died while he is in
24 prison, a graying, middle-aged adult. Imagine the loss.

25 I also point out the statement Mr. Holmes made

1 yesterday as particularly moving. He said, I remember looking
2 around the room at the other officers, and I thought one of
3 them would say, that's enough, but they didn't.

4 Now when I hear your attorney implying that if someone
5 did the crime, no harm, no foul, they deserved it, I am frankly
6 shocked. Even if counsel only means to say that none of these
7 people can be believed because they are criminals, the mountain
8 of evidence to the contrary completely belies that position.

9 So what does all of this have to do with the crimes of
10 conviction you ask? It demonstrates at the very least a
11 serious lack of respect for the due process of law and your
12 unwillingness to acknowledge the truth in the face of all of
13 this evidence.

14 The freedom that we treasure most of all in this
15 country is the right to live free of governmental abuse of
16 power. Those who represent the government and hold power over
17 other citizens are the embodiment of the principle that we live
18 by, the rule of law. The rule of law holds us together as we
19 live out our great social experiment known as the United States
20 of America.

21 For that reason those of us who are entrusted with
22 governmental power take an oath upon entering office that we
23 will uphold the law. For the police it means to protect the
24 safety of the people so they may go about their lives peaceably
25 and productively as they see fit, and to use their abilities

1 and resources to identify those who commit crimes that threaten
2 that safety. It is obvious that officers who do this important
3 work must operate within the bounds of the law.

4 When a confession is coerced, the truth of the
5 confession is called into question. When this becomes
6 widespread, as one can infer from the accounts that have been
7 presented here in this court, the administration of justice is
8 undermined irreparably. How can one trust that justice will be
9 served when the justice system has been so defiled? This is
10 why the crimes of obstructing justice and perjury, and even
11 more so when it is about matters relating to the duties of
12 one's office, are serious offenses.

13 Your attorney -- one of your attorney's other themes
14 seems to be that it is okay to lie under oath as long as the
15 victim got a \$7 and a half million settlement. Apart from the
16 wrongheadedness of that argument on several levels, I have also
17 asked myself in practical terms why you would not have asserted
18 your privilege against self-incrimination as you did in the
19 same time frame before the special investigator?

20 I infer that you must have reckoned that doing so
21 would result in an adverse inference against you in the civil
22 suit, bringing the house of cards of denial down around you,
23 further damaging your reputation as a decorated police officer
24 and commander, exposing your long history of misconduct, and
25 undermining your long history of denial that these events

1 occurred. As such there is a basis for what we used to call
2 departures under the guidelines on the basis that these
3 offenses were committed in order to conceal the commission of
4 other offenses.

5 Let me turn from the seriousness of the offense to the
6 issue of deterrence. As you know I am no stranger to violent
7 crime. I am deeply indebted to the valiant police officers
8 who, like you did on so many occasions, dedicated themselves to
9 apprehending the persons responsible. I fully trusted, and I
10 was not disappointed, that the Chicago Police Department and
11 other law enforcement agencies would apprehend the perpetrator
12 of the crime that affected me. Respect is hardly a sufficient
13 word for how I feel about the talent and dedication of the
14 people who helped me and my family in a time of crisis.

15 Yet too many times I have seen officers sit in the
16 witness box to my right and give implausible testify to defend
17 themselves or a fellow officer against accusations of
18 wrongdoing. Each time I see it, I feel pain because the office
19 they hold has been diminished.

20 Thus, I think it is very important that when an
21 officer, in this case retired, of course, is convicted of lying
22 about what he did or saw or knew, that consequences follow to
23 demonstrate to others that testifying falsely, including in
24 response to discovery, is risky and wrong.

25 Now let's talk about you. I agree with your sister-

1 in-law that the Jon Burge who sat in this courtroom and who has
2 lived an exemplary life as a public servant is not the Jon
3 Burge who stands convicted by proof beyond a reasonable doubt.
4 The letters about you are something you should always treasure,
5 as you have many devoted friends, family members, and former
6 colleagues, and citizens who are thankful to you for your work
7 on their behalf.

8 One man wrote that if he were on his way to heaven and
9 Satan was trying a final time to take his soul, he would want
10 Jon Burge watching his back.

11 The story your lawyer recited earlier about the woman
12 whose home was fire bombed after she moved into an all white
13 neighborhood demonstrates that you had integrity. You acted
14 heroically on many occasions.

15 As for implications of racism, I hear you, and I know
16 that those hurt you. I do not believe that anyone in this
17 courtroom believes you are the cause of the racial divisions
18 that plague our community, nor should you. I kept evidence of
19 racism out of the trial because I believe everyone must be
20 judged by their conduct, not their feelings or beliefs.

21 There are those who believe you are deeply racist, and
22 there are those who believe you could not possibly have
23 tortured suspects. I doubt that my opinion or what happens
24 here will change anyone's views. You are the person you are,
25 neither all good, nor all evil, just like the rest of us.

1 So, like Mr. Weisman, I have asked myself many times
2 what motivated you. My best guess is ambition. Euripides was
3 quoted as saying long ago, ambition drove many men to become
4 false, to have one thought locked in the breast, another ready
5 on the tongue.

6 Perhaps the praise, publicity, and commendations you
7 received for solving these awful crimes was seductive and may
8 have led you down this path. On your behalf how I wish that
9 there not been such a dismal failure of leadership in the
10 department that it came to this.

11 As one commentator wrote, if the first time -- I'm
12 paraphrasing -- if the first time this happened your commander
13 had said, you do that again, and you'll be guarding the parking
14 lot at 35th and State, then you might have enjoyed your
15 retirement without this prosecution over your head, without the
16 reality that you will going to prison in your declining years,
17 when your health is compromised as it is.

18 If others, such as the United States Attorney and the
19 State's Attorney, had given heed long ago, so much pain could
20 have been avoided.

21 But here we are today, and I am charged with the
22 unhappy duty of imposing a sentence. The sentencing guidelines
23 council that a sentence of 21 to 27 months is a starting point
24 for me. And although not presumptively reasonable, one that
25 must be seriously considered, as I have done.

1 I have also considered the so-called 3553 factors, be
2 personal circumstances, the availability of medical care within
3 the Bureau of Prisons. And so I am now prepared to impose a
4 sentence.

5 Pursuant to the Sentencing Reform Act of 1984, it is
6 the judgment of the court that the defendant Jon Burge is
7 hereby committed to the custody of the Bureau of Prisons to be
8 imprisoned for a term of 54 months on Counts 1, 2, and 3, all
9 to run concurrently.

10 Upon release from prison you shall be placed on
11 supervised release for a term of three years. The term
12 consists of three years on each of Counts 1, 2, and 3, all
13 terms to run concurrently.

14 You must then immediately report upon your release to
15 the probation office in the district to which you are released.

16 While you're on supervised release, you must not
17 commit any other federal, state or local crimes, and comply
18 with the standard conditions of release that have been adopted
19 by the Court, as well as the following additional conditions.

20 You must refrain from any unlawful use of a controlled
21 substance and submit to drug testing as required by the
22 probation department.

23 You must cooperate in the collection of a DNA sample
24 at the direction of the probation officer. You may not possess
25 a firearm or destructive device.

1 You shall also comply with the following special
2 conditions: You shall participate in an alcohol aftercare
3 treatment program, which may include urine testing at the
4 discretion of the probation officer.

5 You shall pay any financial penalty that is imposed by
6 this judgment. Actually the only financial penalty I'm
7 imposing is \$100 on each count. There will be no fine.

8 You shall pay a mandatory special assessment of \$300,
9 which is what I just mentioned.

10 Based on the other elements of the sentencing, I will
11 waive the costs associated with supervision and the interest on
12 the fine.

13 I'm reading from a document. Let me amend that. I
14 will waive the costs associated with supervision.

15 I will also recommend a facility that is equipped to
16 handle your illnesses.

17 And with that I can only say that I'm sure you are
18 glad it is over, as we all are here.

19 THE DEFENDANT: Thank you, your Honor.

20 THE COURT: You do have the right to appeal your
21 conviction and the sentence I impose. Your attorneys will know
22 this, but you must file your appeal within 14 days.

23 ** ** ** ** **

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