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Jury finds former SAISD trustee not guilty in bribery case

By Alia Malik | December 19, 2017 | Updated: December 19, 2017 8:00pm

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A federal jury found Olga Hernandez not guilty Tuesday of conspiracy to commit honest services wire fraud and conspiracy to solicit and accept bribes, rejecting arguments by prosecutors that she had a long-running arrangement with an insurance broker to back his contracts as a San Antonio Independent School District trustee.

The jury took more than five hours to reach the verdict. Hernandez wept and hugged her attorneys when it was announced to gasps from family and friends who filled nearly half the courtroom.

Their expressions of relief and support were loud enough for U.S. District Judge Xavier Rodriguez to order quiet, and they cheered Hernandez anew as she exited the federal courthouse.

“I was just happy to give my side of the story, and that the jury believed it, because there was a lot said on the other side that was not true,” Hernandez said. “I was never bribed.”

Evidence showed Hernandez accepted lavish casino trips, dinners, jewelry, campaign contributions and Spurs playoff tickets from insurance broker Samuel Mullen and his former employee Joshua Cerna, the prosecutor, Assistant U.S. Attorney Mark Roomberg, said in closing arguments.

In return, he said, Hernandez voted for insurance contracts that earned sizable commissions for the Mullen Pension & Benefits Group and championed the company at meetings with district officials and her fellow trustees.

“She advocated for them out in the open and behind the scenes,” Roomberg said.

Testimony about the alleged scheme came from Mullen, Cerna and the school district’s own consultant, William Haff — all of whom have pleaded guilty to federal charges in the case.

They said they coached Hernandez on how to push for contracts that would earn the Mullen Group commissions, even during no-contact periods between bidders and trustees.

The FBI said Mullen bribed Haff with more than \$83,000 to help win contracts.

After they were approached by the FBI, Cerna and Haff agreed to cooperate and secretly recorded conversations with Hernandez. Some of the talks formed the backbone of the government's case, including a discussion of insurance issues during which Hernandez accepted a \$500 James Avery gift card from Cerna that had been provided to him by the FBI.

Hernandez's attorney, William T. Reid IV, told the jury that Hernandez accepted gifts as part of a friendship with Mullen and Cerna, but never pledged her vote or interfered with the school district's contracting process.

He questioned how Hernandez could have known Mullen was bribing Haff for inside information from SAISD if the school district's risk manager did not know.

Reid asked jurors to distinguish Hernandez's thoughts and actions from those of Mullen, Cerna and Haff. Hernandez and her husband were retirees of limited means, while Sam Mullen was a "high roller" who had to pay the couple's way if he wanted to socialize with them, Reid said.

"There's no proof that she rigged a single thing," Reid said. "She fell victim and thought she was really friends with these people."

Frequently calling Cerna "Judas" and Haff "half-truth," Reid said they testified against Hernandez to reduce their sentences. He said Mullen never had an agreement with Hernandez.

Reid called the James Avery gift card a “trap.”

“They set out to confirm what they thought to be the case and they couldn’t do it, so they came up with this gift card scheme,” Reid said.

More than two hours into deliberations, the jury asked for the legal definition of entrapment.

“Entrapment is not an issue for you to consider in this case, nor is it a defense in this case,” Rodriguez replied.

All Hernandez’s votes that benefited the Mullen Group were based on the recommendations of SAISD’s risk manager, Reid said.

When the risk manager recommended replacing Haff’s firm as the district’s insurance consultant, Hernandez voted to do so. Hernandez never asked to be on the board’s finance subcommittee that governed insurance, Reid said. Nor, Reid said, did she push to fire SAISD’s risk manager, although the Mullen Group wanted it.

Reid said Hernandez thought the James Avery gift card was a present for witnessing vow renewals between Cerna and his wife. When Cerna later tried to give Hernandez a \$1,000 Saks gift card, she turned it down, Reid said.

Prosecutors countered that Hernandez pressured SAISD’s risk manager to allow the Mullen Group time to enroll more employees, earning the brokerage firm more revenue from commissions.

The risk manager, Irma Hernandez, testified she had to cancel some policies because the Mullen Group sold them to the district's lowest-paid employees at premiums beyond their means.

Irma Hernandez tried to save the district and its taxpayers money by eliminating commissions from insurance contracts, prosecutors said. But Olga Hernandez used her influence with former Superintendent Sylvester Perez to add the commissions back in, Roomberg said.

Mullen, Cerna and Haff mentioned other SAISD trustees who supported the firm's contracts through the years. Haff said several now former trustees received free meals and trips on Mullen's dime.

But Hernandez, who was on the board for 11 years before stepping down in February, days after her indictment, was the only SAISD trustee, current or former, who was charged in the case. She understood her role in supporting Mullen and how she benefited from it, Haff testified.

Reid, of the Austin-based firm Reid Collins & Tsai, is a former federal prosecutor who said he defended Hernandez pro bono because he was disturbed by the government's treatment of her. He compared Hernandez to Muhammad Ali for refusing to plead guilty and cooperate with prosecutors, as Haff and Cerna did.

"When the government does wrong, we the citizens need to stand up and that's what this jury did today," Reid said after the verdict.

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