



John Edwards trial judge meets with attorneys on 'juror matter'

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

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Los Angeles Times on May 25, 2012 released the following:

"The panel is sent home for the Memorial Day weekend after six days of deliberations with no verdict in the campaign finance case.

By David Zucchino, Los Angeles Times GREENSBORO, N.C. — The federal judge in the John Edwards trial closed her courtroom Friday afternoon to deal with what she called a "juror matter," and then sent the jury home for the Memorial Day weekend with no verdict reached.

U.S. District Court Judge Catherine Eagles did not disclose what she and lawyers for both sides discussed during the 35 minutes the courtroom was closed to reporters and spectators. Jurors will return for a seventh day of deliberations Tuesday morning.

Before deliberations began on May 18, the jury foreman, a financial consultant, told the judge that he might have an upcoming scheduling conflict. On Friday, Eagles told lawyers for both sides to arrive early Tuesday in case she needs to discuss a juror matter with them.

As she does at the close of each session, Eagles reminded jurors not to discuss the case with anyone — even fellow jurors — outside the jury room, and to avoid all media reports about the trial.

The jury of eight men and four women must decide whether \$925,000 in payments from two wealthy patrons were illegal campaign contributions during Edwards' failed race for the 2008 Democratic presidential nomination. Edwards contends the payments were private gifts not directly related to the campaign.

After a sixth day of deliberations, it was not possible to determine whether the jury was divided over guilt versus acquittal, or merely being thorough and meticulous. The longer deliberations drag on, the greater the likelihood of a split verdict or,

if disagreements cannot be resolved, a hung jury.

Jurors have asked to review more than 60 trial exhibits focusing on payments made to hide Edwards' affair with Rielle Hunter, whom he had hired as a campaign videographer. The jury has met for about 34 hours over six days, after having listened to 31 witnesses and examined hundreds of exhibits during the monthlong trial.

Jurors troop in and out of the wood-paneled courtroom a couple of times a day, a collection of ordinary citizens in jeans, slacks and summer dresses. Some looked weary Friday. Others appeared restless. The faces of one or two jurors suggested mild annoyance.

Edwards, 58, unfailingly neat and trim in a dark suit, has studied jurors closely during their brief courtroom appearances over the past week, appraising their demeanor from his regular seat at the defense table.

The former U.S. senator and 2004 Democratic vice presidential nominee is charged with six counts of accepting illegal campaign contributions. He faces up to 30 years in prison and \$1.5 million in fines if convicted and sentenced to maximum penalties.

Jurors' requests for exhibits this week indicate they have plowed through the first two counts, which involve \$725,000 in checks from billionaire heiress Rachel "Bunny" Mellon, an ardent Edwards supporter. Jurors now appear to be finishing up deliberations over the next two counts, involving payments from the late Fred Baron, a wealthy Texas lawyer who was Edwards' national finance chairman.

Prosecutors say Edwards orchestrated the payments to cover up the affair and prevent his campaign from collapsing in scandal. The defense says the payments were intended to hide the affair from Edwards' wife, Elizabeth Edwards, who had grown increasingly suspicious of her husband.

The other two counts against Edwards accuse him of causing his campaign to file false finance reports and conspiring to accept and conceal illegal contributions through "trick, scheme or device."

The jurors must reach a unanimous decision on each count to convict. Eagles has instructed them that prosecutors don't have to prove that the sole purpose of the payments was to influence the election — only that there was a "real purpose or an intended purpose" to do so.

However, Eagles also told the jurors: "If the donor would have made the gift or payment notwithstanding the election, it does not become a contribution merely because the gift or payment might have some impact on the election.""

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The author of this blog is Douglas C. McNabb. Please feel free to contact him directly at mcnabb@mcnabbassociates.com or at one of the offices listed above.



U.S. asks judge to undo ruling against military detention law

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

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Chicago Tribune on May 25, 2012

released the following:

“Basil Katz

Reuters

NEW YORK (Reuters) – Federal prosecutors on Friday urged a judge to lift her order barring enforcement of part of a new law that permits indefinite military detention, a measure critics including a prize-winning journalist say is too vague and threatens free speech.

Manhattan federal court Judge Katherine Forrest this month ruled in favor of activists and reporters who said they feared being detained under a section of the law, signed by President Barack Obama in December.

The government says indefinite military detention without trial is justified in some cases involving militants and their supporters.

But critics worry that the law is unclear and gives the Executive Branch sole discretion to decide who and what type of activities can be considered as supporting militants.

The judge’s preliminary injunction bars the government from enforcing section 1021 of the National Defense Authorization Act’s “Homeland Battlefield” provisions.

The section authorizes indefinite military detention for those deemed to have “substantially supported” al Qaeda, the Taliban or “associated forces.”

In a brief filed in New York late on Friday, the government said the plaintiffs

in this particular case had nothing to fear. “As a matter of law, individuals who engage in the independent journalistic activities or independent public advocacy described in plaintiffs’ affidavits and testimony, without more, are not subject to law of war detention as affirmed by section 1021,” prosecutors in the Manhattan U.S. Attorney’s office wrote.

During oral arguments in March, Forrest heard lawyers for former New York Times war correspondent and Pulitzer Prize winner Chris Hedges and others argue that the law would have a chilling effect on their work.

The judge said she was worried by the government’s reluctance at the March hearing to say whether examples of the plaintiffs’ activities – such as aiding the anti-secrecy website WikiLeaks in the case of Birgitta Jonsdottir, a member of parliament in Iceland – would fall under the scope of the provision.

Bruce Afran, a lawyer for the plaintiffs, said the government’s brief failed to address fundamental concerns about what type of conduct is outside the law, and which person or group is deemed sufficiently “independent” of enemy forces.

“It is surprising that the government is pursuing this case because it has other statutes that specifically target terrorist groups,” Afran said.

The government noted that courts rarely intervene in matters directed by the Executive Branch.

“Issuing an injunction regarding the President himself, or restraining future military operations (including military

detention) ... would be extraordinary,” prosecutors wrote, noting that they were considering an appeal of the judge’s order.”

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Media motion seeks Edwards juror names at end of trial

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

Submitted at 8:01 AM May 26, 2012

The Charlotte Observer on May 24, 2012 released the following:

“The News & Observer, The Charlotte Observer and other media organizations are seeking to make public the names of jurors deciding federal charges against John Edwards at the end of his trial at the U.S. District Court in Greensboro.

In a motion filed with the court Wednesday, the media organizations cited a local rule of the Greensboro court that prohibits the clerk’s office from disclosing without court permission the names, addresses and telephone numbers of people who have served on juries.

The panel deciding whether the former U.S. senator and Democratic presidential candidate violated federal campaign-contribution laws is expected to begin its fifth day of deliberations Thursday. The jury has not been sequestered during more than four weeks of testimony or during deliberations.

The names of people serving on federal juries is public according to federal law, the media organizations argued in their court filings.

The motion also cites intense public interest in the trial and in how the jury ultimately rules. It argues that “there is no compelling governmental interest in withholding the identities of individuals who served on the jury. Moreover, given

that the case has proceeded in open court with jurors whose identities are at least partially known, perpetuating the secrecy of the jury is an affront to the First Amendment in service of a weak interest with no hope of success.”

Joining in the motion are WRAL, WTVD, The New York Times Co., Media General, News 14 Carolina, NBC Universal and The Associated Press.”

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