

Tribal leader's allies cleared

Judge tosses Seminole fraud case

Ruling seen as victory for Billie

BY JOHN HOLLAND
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They indicted his friends, imprisoned his pilot and flew to the Caribbean looking for evidence. They called him a suspect without bringing charges, audited his finances and visited Seminole tribal meetings unannounced, hoping to turn colleagues against him.

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In all, federal investigators spent three years and a pile of money trying to get Seminole Chairman James Billie. But Billie got them first.

A federal judge on Tuesday tossed out all of the theft charges against three of Billie's associates, one day after he gutted the government's entire case with five hours of clear, powerful testimony that contradicted almost everything prosecutors had alleged.

Billie has never been charged, and defense lawyers said such a resounding defeat will likely discourage prosecutors from going after him. Yet a

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spokeswoman for the U.S. Attorney's Office said the verdict "in no way will deter us from prosecuting these cases in the future."

U.S. District Judge William Dimitrouleas issued his ruling, highly unusual in federal cases, after two weeks of trial in which many government allegations were proved false during cross-examination — often by evidence prosecutors had gathered but never showed to the jury.

Dimitrouleas dismissed fraud and embezzlement charges against former Seminole operations director Tim Cox, the tribe's former computer expert Dan Wisher, and Wisher's son-in-law, Michael Crumpton. Earlier he had dismissed a single count accusing Crumpton of lying to federal investigators.

Dimitrouleas told jurors he rarely dismisses cases but the lack of evidence made it necessary.

KEY TESTIMONY

The move comes after Billie, still the chairman but under tribal suspension, testified that the three men didn't steal any money. Instead, he said, he gave them \$2.7 million to set up an Internet gambling operation that could have netted the tribe as much as \$740 million if federal prosecutors and disgruntled tribe members hadn't interfered.

Prosecutors and federal investigators never interviewed Billie to find out if he, as tribal leader, authorized the payments. The U.S. Attorney's Office said they tried to interview the chairman, but Billie's lawyer insisted on too many restrictions to make an interview productive.

Dimitrouleas equated the case with someone reporting a car stolen without checking with the owner to confirm the car was actually stolen. He concluded there was not enough evidence that any Seminole money was taken improperly.

"Obviously, my client is ecstatic, because he now knows he will be home for Christmas with his wife and children," said Kenneth Lipman, Cox's attorney. "From the first day of the investigation, the government decided these men were

when hundreds of FBI agents were tracking terrorist links in South Florida, the Billie investigators were talking to witnesses in remote Hendry County.

So far, only one person has been convicted. Former tribe pilot Charles Kirkpatrick is serving a 13-month prison sentence for failing to report more than \$600,000 in commissions he earned selling airplanes for the tribe.

In court he testified that prosecutors wanted to use him to go after Billie. Lawyers for Cox, Wisher and Crumpton said prosecutors also offered their clients great deals to turn on their boss. Like Kirkpatrick, they refused because nobody did anything wrong, the lawyers said.

Cox, Wisher and Crumpton were indicted in June and charged with stealing \$2.77 million by diverting it to private accounts in Central America and a company they controlled, Virtual Data.

In the indictment and in opening statements to jurors, Assistant U.S. Attorney Ed Stamm told jurors that Virtual Data was a sham company set up only to aid the fraud. But evidence introduced at trial showed that Virtual Data paid hundreds of thousands of dollars in Internet gaming expenses and spent other money at a hotel partly owned by the tribe along with Cox and Wisher.

TRIBAL SPENDING

The trial also showed the uncontrolled spending by some tribal leaders, including Councilor David Cypress. Cypress testified he spent \$57 million in just three years, giving away money to friends and tribe members while spending lavishly on himself and relatives.

Cypress became upset when Cox and Billie cut off his allowance and instituted other measures to keep tabs on tribal spending, he said. Then he began talking to federal investigators.

The effect of the judge's ruling on the tribe is unclear, said tribal councilor Max Osceola. Billie remains under suspension but is fighting to get his job back. At the very least, he will run for election as tribal chairman in May, said Billie's attorney Robert Saunooke.

Saunooke is confident his client will never be charged.

"In light of the fact that they

Key dates

May 10, 2001: James Billie, chairman of the Seminole Tribe since 1979, is served with a federal sexual harassment lawsuit by former employee Christine O'Donnell. On the same day, the tribal council fires Tim Cox, Billie's operations manager and close ally. The council also fires Dan Wisher.

May 24, 2001: The Seminole Tribal Council suspends Billie for "gross misconduct." Tribe officials say the suspension is unrelated to ongoing FBI inquiries in connection with a federal grand jury investigation.

June 4, 2001: Billie files an administration complaint with the U.S. Bureau of Indian Affairs against the tribe to get his job back. (The bureau later defers to the tribe and dismisses the complaint.)

Sept. 5, 2001: The Seminole Tribe sues Billie, Cox and the Raymond James investment firm in federal court, alleging a scheme aimed at gaining unauthorized control over the tribe's \$30 million investment reserves.

Jan. 9, 2002: Seminole Tribal Council members were under

armed guard after the tribe's general counsel, Jim Shore, was shot and wounded in what appeared to be a planned attack at his Hollywood home.

May 2002: Despite a \$50,000 reward, Hollywood police report no progress on solving the Shore shooting and prepare to move the case to inactive status.

June 24, 2002: Cox, Wisher and Wisher's son-in-law, Michael Crumpton, are charged in a federal indictment with stealing \$2.77 million from the tribe in a conspiracy that involved theft, embezzlement and money laundering.

July 2002: Seminole lawsuit against Billie, Cox and Raymond James is dismissed from federal court for jurisdictional reasons.

October 2002: Former employee O'Donnell drops sexual harassment lawsuit against Billie.

Dec. 2, 2002: Trial of Cox, Wisher and Crumpton begins in federal court in Fort Lauderdale.

Dec. 17, 2002: Trial ends with a directed verdict of acquittal for the three defendants.

guilty and set about ignoring all the overwhelming evidence of their innocence by twisting and magnifying what little evidence they did have.

"As a former federal prosecutor myself, I understand it's important to keep an open mind, and they didn't do that," Lipman said.

In a statement, the U.S. Attorney's Office said it disagreed with the judge's ruling, which cannot be appealed.

"Although we are bound by the Court's decision, we strongly believe that the case should have gone to the jury," the statement said. "We stand by our case and today's result in no way will deter us from prosecuting these cases in the future."

\$1 MILLION INQUIRY

The directed verdict is a stunning defeat for federal agents who spent years and more than \$1 million investigating the tribe, which became a billion-dollar operation during Billie's 22-year tenure as chairman. The case was a high priority to the government, as shown by testimony that just days after the 9/11 attacks,

now know for sure that no crime was committed, this would be a malicious prosecution and we would certainly go after them for it," Saunooke said. "I think they'll move on to other things."

As the trial progressed, and evidence emerged of financial shenanigans by many tribe members, along with proof there actually was an Internet operation, Stamm and lead investigator Brian Teamer shifted the focus of their case. Instead of denying it existed, they tried showing the operation was set up to benefit the defendants and not the tribe, defense lawyers said.

The tactic irritated defense lawyer Alvin Entin.

"Everything the government did was to try and slip around their own documents and their own witnesses," he said. "The agents put together a disingenuous case and the prosecutors got stuck with it. There wasn't much Ed Stamm could do."

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