

Shumaker attorneys win acquittals in federal procurement collusion case

10/8/2023

BY MIKE BRICE / THE BLADE



Shumaker attorneys David Axelrod, Krystina Garabis, and Mark Wagoner stand at the lectern to celebrate Ms. Garabis' first time handling a witness in federal court.

SHUMAKER

Facing 15 years in prison and more than \$1 million in fines, clients shed tears of joy in Florida when a federal jury returned not guilty verdicts after a three-week trial.

The jury in the Middle District of Florida in Tampa found Larry O'Brien, Bruce LaRoche, and Thomas Dailey not guilty on all antitrust charges alleging conspiracies to violate the Sherman Act and to defraud the United States by manipulating bids for promotional items provided to the Army over five years.

Shumaker, a Toledo-based law firm, served as the attorneys for the defendants. The jury issued its verdicts in September.

The three men were first charged in April, 2022, with conspiring to rig bids for customized promotional products, such as backpacks, water bottles, and pens, to the Army. The U.S. Department of Justice's Procurement Collusion Strike Force brought the charges.

Mr. O'Brien was represented by Shumaker attorneys David F. Axelrod, Mark D. Wagoner, Jr., and Krystina E. Garabis, with the assistance of Ali Latif and Andrew DeWeese.

On the opposing table, six prosecutors were working to get a conviction. The U.S. Department of Justice did not respond to a request for comment on the case.

The toll on the defendants and their attorneys was immense, Mr. Axelrod said.

"He was courageous," Mr. Axelrod said of his client. "He was offered what I would characterize as a real sweetheart deal."

But it wasn't true. There was no conspiracy, so he had to take the case to trial and convince the jury, he said.

"These were small businessmen whose customers loved them," he said.

"There was not a shred of evidence that the prices were not fair and reasonable. There was not a shred of evidence that the Army didn't get exactly what it bargained for. There was not a shred of evidence that anybody was deceived," Mr. Axelrod said.

Mr. Axelrod said Mr. Wagoner's closing argument was a "tour de force."

"He put the last nail in the coffin of the government's case," he said.

Mr. Wagoner, a Toledo-area resident, said the goal was to paint a simple story for the jury, which had to sort through more than 450 exhibits and hear from more than 20 witnesses.

"We came up with the seven shaky assumptions that we walked the jurors through. The government isn't telling you everything. They want you to make these major assumptions," he said. "I argued to the jury that you can not make any one of those seven assumptions beyond a reasonable doubt.

"If the jury wants to find your way, let's give them a blueprint on how to do it," Mr. Wagoner said.

The two-hour summation was effective at convincing the jury, which deliberated for 48 hours before reaching the not guilty verdicts.

Mr. Wagoner spent five weeks in Tampa preparing for and trying the case, with evenings after the trial spent preparing for the next day's proceedings.

"It was an endurance contest," he said.

He still gets emotional when he thinks about when the verdicts were read.

"I had a tear in my eye because a good man was able to move on with his life," Mr. Wagoner said. "This is why you went to law school to do these sorts of things. Larry had the courage to stand up for himself. A lot of people wouldn't do that."