JAMES GILL

Jim Brown's smart to be less trusting this time

Whether he wins or loses his appeal, Jim Brown got a raw deal in his federal trial last year.

It was a cockamamie trial in any case, prosecutors adducing no credible evidence for their theory that Brown, former Gov. Edwin Edwards and Shreveport attorney Ron Weems had concocted a sweetheart deal for the owner of a bankrupt insurance company and should therefore be sent up the river for many a long year.

Brown was the only defendant not to walk away scot-free, because, before his indictment, he had agreed to an interview with FBI agent Harry Burton.

Evidently Brown, not having committed any criminal offenses, did not suspect a trap. Poor sap. He should have learned at his mother's knee that, innocent or guilty, you never, ever take chances with the FBI.

The allegations in Brown's appeal suggest that he now understands the wisdom of that axiom. When Brown was indicted, the feds tacked on allegations that he had lied in his interview with Burton by downplaying his role in the insurance settlement. Lying to a fed, even when not under oath, is a felony, although, of course, there is no requirement of veracity the other way round.

Although the alleged fibs were small beer by comparison with the central charges, they were enough for Brown to draw a sentence of six months. He was also required to step down as state insurance commissioner, and his law license was suspended.

Brown had no obvious reason to lie to Burton, since, as the jury verdict later established, he had nothing to hide. What Brown did not know, however, was that the feds had a bug on Edwards' phone and Burton was therefore asking questions to which he already knew the answers. The interview seems to have been little more than a trick to catch him in a lie.

At trial it was Burton's word against Brown's, because the interview was not tape recorded. The only evidence was a summary of the interview that Burton typed up from his notes some days later. Brown testified that the summary gave a false impression of what he had said and asked to see Burton's handwritten notes. Fair play suggested that he should be given them so that his counsel could contest Burton's testimony on cross-examination.

But Judge Edith Brown Clement refused and told the jury, after an in-camera review, that the typewritten summary was "accurate based on the handwritten notes." Deciding whether to believe an FBI agent or a Louisiana politician would normally be a tough call, but Clement's assurances left the jury with little choice but to believe Burton.

When the defense finally got to see Burton's notes courtesy of the appeals court, however, "glaring discrepancies" were discovered, according to Brown's appeal. Allowing that legal arguments generally appear less compelling after the other side weighs in — the government has 30 days to file its response — Brown's appeal adduces reams of evidence to suggest that Clement was a little hasty in vouching for the accuracy of the typewritten summary.

According to the defense, Burton, "having a bias against Jim Brown, deliberately crafted (his summary) to assist a false statement prosecution." The appeal claims that Brown was convicted for statements that either do not appear at all in the handwritten notes or were doctored in the typewritten summary to make what was true appear to be a lie. The appeal also argues that Brown was legally entitled to the handwritten notes at trial. Either way, it sure would have saved a lot of time and money if Clement had let him take a gander.

Brown also claims Clement was wrong to exclude testimony that a similar handwritten summary signed by Burton for Edwards' riverboat-shakedowns trial had to be redone because the witness interviewed found that it contained 16 errors.

Brown's appeal will also provide a preview of how the appeals court might rule on a couple of the arguments Edwards has advanced to challenge his riverboat conviction. Both cases arose from the same wiretaps, which Brown and Edwards allege were illegal because the feds when seeking permission to install them failed to reveal that their informant, Patrick Graham, was a notorious Texas swindler.

Both Clement and the riverboat trial judge, Frank Polozola, ordered that the jury remain anonymous. Brown argues, as Edwards is expected to, that there was no justification for thus giving jurors the impression that the defendants were sinister characters.

If the appeals court does grant Brown's appeal, it will amount to a somewhat ungracious welcome for its newest member, none other than Clement. Her elevation should be confirmed by the U.S. Senate any day now.

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James Gill is a staff writer. He can be reached at (504) 826-3318 or at jgill@timespicayune.com.