JAMES GILL

Semantic bickering could clear Jim Brown

The longer Assistant U.S. Attorney Jim Mann argued in court Wednesday, the more likely suspended Insurance Commissioner Jim Brown seemed to get his convictions overturned.

"That makes no sense. Sorry," Judge Edith Brown Clement told Mann at the end of one particularly opaque sequence of fractured sentences. Don't blame Mann, though. This case has been an embarrassment for the government from day one.

The prosecution team at last year's trial never came close to proving that Brown and former Gov. Edwin Edwards had been part of a conspiracy to let David Disiere stiff creditors of his liquidated Cascade Insurance Company.

The jury did, however, throw the government a bone by finding Brown guilty on seven counts of lying to FBI agent Harry Burton during his investigation of the crime that never was. The jury acquitted Brown on six similar counts.

Brown says he told Burton the truth, and it is indeed hard to see what motive he had for doing otherwise. Had he thought he had committed a crime, Brown presumably would have had more sense than to talk to the FBI in the first place. Come to think of it, he should have had more sense regardless. But it is not easy to keep a politician from running off at the mouth.

Brown filed a motion asking Clement for an acquittal or a retrial. She summoned attorneys to Wednesday's hearing to address the two counts on which the jury seemed most likely to have misconstrued the evidence. The hearing quickly degenerated into semantic quibbling as Clement and counsel pored over the words in trial transcripts, the indictment and Burton's report of his interview with Brown.

One of Brown's convictions was for using the wrong adverb in his interview with Burton. According to Burton's report, Brown, asked what he knew about "the activities of David Disiere in his operation of the Cascade Insurance Company," replied that he was "vaguely familiar" with what had happened.

The jury found that to be a lie, because the feds had surveillance tapes indicating that Brown, though not a party to the liquidation negotiations, had a pretty good idea how they were going down. Maybe he could have gotten away with "fairly familiar," but "vaguely" was an adverb that merited a trip up the river.

Brown's attorney, Bill Jeffress, argued Wednesday that Brown's answer was truthful, since the liquidation of a company is not the same as its operation, and Cascade was out of business before Brown became insurance commissioner.

Nitpicking, maybe, but it is not illogical to interpret Burton's question as applying to Disiere's activities before Cascade failed.

The other bone of contention Wednesday was no less picayunish. Brown was convicted of lying about precisely when he knew that the state was preparing to file a civil suit against Cascade. In case you care, he knew about the suit, which never was filed, in December 1996. That's not what he told Burton, the jury found, although Clement Wednesday directed Mann's attention to a sentence in the report that suggested Brown had indeed come clean about what he knew and when he knew it.

Although Clement seemed sympathetic to the defense on the two counts discussed Wednesday, the remaining five seem more likely to stand, since Jeffress' motion claims that she screwed up at trial. Jeffress concedes that may be a hard sell.

Whereas Judge Frank Polozola had driven everyone up the wall as he lollygagged through Edwards' riverboat extortion trial earlier last year, Clement moved like lightning when she turned up in Baton Rouge to handle the trial of Edwards and Brown. You seldom saw a courtroom so alert.

From Brown's perspective, however, Clement's pace is perhaps a little too mercurial. Jeffress wants the convictions overturned because Clement refused to lose time by allowing Burton's handwritten interview notes into evidence. Instead, jurors only got to see the report he typed up a few days later, which Clement said was consistent with the original notes.

Jeffress figures his client has a right to check all the evidence against him and let a jury decide whether any disparities exist. If the law does not give Brown the right to Burton's notes, the law is a bigger ass than we thought.

Brown's convictions are a meager return for all the money taxpayers spent on the Cascade case. If Clement, or the appeals court, does overturn those convictions, the government would merely look petty and vindictive if he were put on trial again. Don't bet against it.