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Courtroom bickering slows Feazell trial

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AUSTIN — Courtroom bickering and accusations of legal misconduct by attorneys on both sides slowed proceedings during the 18th day of McLennan County District Attorney Vic Feazell's federal bribery and mail fraud trial.

A heated debate over court rulings and procedures between Assistant U.S. Attorney Jack Frels and Feazell's attorney, Gary Richardson, erupted Friday morning before the jury was brought in.

An underlying animosity between Richardson and Feazell and Frels has been apparent throughout the four-week trial, but the tension intensified Thursday after Frels rested his case and Feazell's defense started.

After U.S. District Judge James Nowlin called a halt to the 30-minute dispute and Feazell's defense continued, the attorneys and Nowlin consulted at least eight

times at Nowlin's bench to clarify his rulings.

On Friday, Frels accused Richardson of intentionally disregarding Nowlin's pretrial rulings that limited the scope of Feazell's defense.

Calling Richardson's tactics and defense strategy "bolstering, highly emotional and self-serving," Frels asked Nowlin to force Richardson to abide by the court's instructions and refrain from introducing "tent-revival type issues" previously ruled inadmissible.

"Mr. Richardson is trying to divert issues away from bribery and onto Jan Patterson and Henry Lee Lucas," Frels told Nowlin. "There have been continual attempts to get to the jury matters the court has already ruled as being inadmissible. He has displayed an intentional disregard and disrespect for this court and for the jury."

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Nowlin ruled before the trial began that Richardson could not use evidence concerning Feazell's investigation of convicted murderer Henry Lee Lucas and the reported retaliation against Feazell by federal authorities as a defense.

He also ruled that a motion filed by Feazell alleging prosecutorial misconduct by Ms. Patterson, a former assistant U.S. attorney, could not be mentioned during the trial.

Each time Richardson or one of Feazell's witnesses mentioned Ms. Patterson or Lucas, Frels would object and ask to come to the bench.

Richardson countered that DPS agent Ron Boyter, the government's first witness, opened the door to discussion of Lucas.

"Your honor, the government brought up the Henry Lee Lucas matter with their own witness before I ever had a chance to cross-examine a witness," Richardson said.

He also charged that Frels and government investigators have withheld evidence gathered during their two-year investigation of Feazell that could prove beneficial to the 36-year-old district attorney's case.

All exculpatory evidence must be turned over to the defense in federal criminal trials.

"Judge, at least we know what his closing argument is going to be," Richardson said after Frels concluded his criticism of Richardson. "He is the slickest lawyer I have ever seen at trying to control a court."

Nowlin ended the debate by saying he left teaching high school to escape dealing with such discipline problems, but added he understands that the long trial has taken its toll on both sides.

"I have let this go on now for a while to let you both get this out of your systems. I did so hoping that you both would feel better, but let's continue with the next witness," Nowlin said.

Richardson called nine defense witnesses Friday, including present and former members of Feazell's staff and representatives of the McLennan County Sheriff's Department.

J.L. Crawford, an investigator in Feazell's office, testified that he turned over a confiscated .357-caliber revolver to Waco attorney Don Hall as part of a forfeiture agreement between Feazell, Hall and Hall's client, Richard Bowers.

Hall, who testified last week, said he never saw the gun, which was found in Feazell's bedroom closet when he was arrested on Sept. 17, 1986, by federal agents.

Feazell has said he bought the gun from Hall.

In other testimony, Truman Simons, a McLennan County deputy, testified about events that led to two arrests of Bowers on drug-related charges and the confiscation of the revolver and almost \$50,000 in cash from Bowers.

The money was forfeited to the state in uncontested civil proceedings, Simons said, and the money was used in McLennan County for law enforcement. Bowers, who was in poor health, received two 10-year probated sentences, punishment that Simons said fit the circumstances of the crimes and Bowers' condition.

Bowers was arrested later, Simons said, and \$6,050 was confiscated from him, but no drugs were found.

Simons said that since no additional case was filed against Bowers, Feazell asked Simons to retrieve the money from the sheriff's department vault to return to Bowers upon his release.

Simons said he gave the money to Feazell, who was in a meeting with Bowers, Hall and Waco bail bondsman Dell Butler. He said when he left the room, the money was sitting in front of Bowers.

Hall testified last week that Feazell gave him the \$6,050 as partial payment for legal fees. Hall said he later gave Feazell a third of the money back in accordance with an agreement he had with Feazell to split legal fees with him for leniency for his clients.

Hall and Hall's partner, Dick Kettler, have testified that they split their fees with Feazell from May 1984 to April 1985.

Bowers' case is one of 19 in which Feazell is alleged in the 10-count indictment to have taken a bribe.

In other testimony, McLennan County Sheriff Jack Harwell and Capt. Dan Weyenberg testified that they have asked Feazell for leniency for at least five driving while intoxicated defendants the men thought deserved a second chance.

Weyenberg said he asked Feazell to consider "mercy rather than justice" in the case of Henry Mendez, a McLennan County probation officer who Weyenberg had learned would lose his job if convicted. Mendez's case, which was dismissed, also is named in Feazell's indictment.

Both said Feazell has been a good district attorney and has worked effectively with their department.

Dale Constancio, a district attorney's office employee, said she was responsible for "hand-delivering" case disposition reports to a Department of Public Safety office in the courthouse and said she knows of no forms that were mailed.

Feazell is charged with mailing fraudulent case disposition reports to area law enforcement agencies, including the DPS.

Two DPS officials have testified that the forms routinely are mailed to their department by Feazell's office.

Defense testimony will continue at 8 a.m. Monday.