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# Fezell Testimony Conflicts

<sup>294</sup>AUSTIN (UPI) — Two Waco attorneys gave conflicting testimony Friday as to whether McLennan County District Attorney Vic Fezell personally handled dismissal of drunken driving cases for which he allegedly received payoffs.

Fezell is on trial for federal charges of mail fraud, racketeering and bribery for retiring criminal charges, primarily drunken driving cases.

Angel Gavito, a former assistant to Fezell, said "some drunken driving cases that were assigned to me that I couldn't find, made their way to Fezell's office. His secretary told me he would handle it."

But assistant district attorney Sandy Simpkins said that one drunken driving charge was not dismissed by Fezell.

"To my personal knowledge, I don't know if Vic even saw the case," Simpkins said.

"Did Vic Fezell ever take a case from you?" asked defense attorney Gary Richardson.

"No," said Simpkins. "This case was dismissed by me."

David Scott, another assistant district attorney, told the federal court jury Thursday he personally dismissed a case in which Fezell allegedly received payoffs.

Gavito said some cases were retired because of violations of the speedy trial act, which requires prosecution of a case in 90 days.

"By not filing on time, the case dies because of the speedy trial act," Gavito said. "It was the policy of the district attorney's office to clear (files) in 10 days to two weeks."

Gavito said that in order to dismiss a case, "I would have to go up the chain of command."

Simpkins said she dismissed certain drunken driving cases because a video tape of person at the time of arrest "looked good."

"Quite often, I'd look at the video after I had filed a case, and the guy looked as sober as he would walking out of church on a Sunday morning. A jury places more emphasis on the video than a breath test," Simpkins said.