

TV drawing distorted facts of case, Feazell attorney says

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An illustration in the second of Charles Duncan's 10-part television series about Vic Feazell is another example of how Duncan exaggerated and distorted information to discredit the former McLennan County district attorney, Feazell's lawyer charged Friday.

Duncan, a former WFAA-TV reporter, spent his third day on the witness stand in the trial of a \$52 million libel suit Feazell filed against Duncan and Belo Broadcasting Co., which owns Channel 8 in Dallas.

Duncan, who is now a private investigator in Dallas, continued to defend his 1985 television series that focused on Feazell's prosecutorial record and other topics related to Feazell's stormy tenure as district attorney.

Visiting Judge James Meyers of Austin recessed the trial shortly after the noon break because Feazell's attorney, Gary Richardson of Tulsa, Okla., received word that his 80-year-old father, a retired minister, had died Friday morning in San Antonio.

The trial will enter its sixth day either Monday or Tuesday, depending on if the funeral is Sunday or Monday, the judge said.

On Friday, Richardson played for the second time in as many days the second episode of Duncan's 10-part series that began airing in June 1985. In the episode, Duncan said "serious ethical questions" had arisen in the way the district attorney's office handled three cases he highlighted during the segment.

The episode said it paid to have friends in the district attorney's office because criminal cases involving "longtime personal friends" of Feazell or his assistants were dismissed because of those relationships or never filed.

Duncan said special prosecutors should have been called in to handle those cases, although, under questioning from Richardson, he said no

one with the now-defunct Prosecutor's Assistance Council in Austin saw such a need.

Duncan said Waco police and Department of Public Safety officials were upset that the cases he mentioned in the series — and others — were not prosecuted by Feazell's office.

The segment featured the drug possession case of Arnold Hernandez, son of Feazell's barber, Ted Hernandez. While Duncan was telling viewers that the younger Hernandez was caught with 3 grams of methamphetamine, an artist's drawing was on the screen showing a man holding a sack at least the size of a plastic sandwich bag.

To illustrate his point, Richardson showed the jury a small plastic bag containing the contents of three 1-gram artificial sweetener packets. The amount was much less than that in the sack in the illustration.

"Mr. Duncan, is that sort of exaggeration OK?" Richardson asked.

"I don't think it was an exaggeration," Duncan said. "It's no big deal."

Duncan said Feazell wrote on Hernandez's file to assign the case to him.

Richardson said court records show that former prosecutor Ken Bennett dismissed the case because he deemed the police search was faulty. Duncan said he had no evidence Feazell was directly involved with the case except for the notation on the file.

Richardson said Feazell did nothing more than review the file at Ted Hernandez's request and then warned the father that he ought to talk to his son.

Another portion of segment two shows Feazell at a victory party after the 1982 general election saying, "It's been expensive in money and time."

Richardson — who played the entire inter-

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view in which Feazell was talking about his imminent victory, his campaign and why he ran for district attorney — asked Duncan why he chose to air a part of one sentence that implied to viewers that Feazell needed money.

"That fit into your preconceived story line better, didn't it?" Richardson asked.

Duncan said he merely used his journalistic discretion to select that part of Feazell's conversation, adding that it served as a transition to introduce his next example — a young Baylor University law student who got stopped for drunken driving on his way home from Feazell's victory party.

Richardson said the law student, Bill Conover, who is now an assistant attorney general, got arrested in November 1982, adding that Feazell didn't take office until January 1983. Richardson said Feazell's predecessor, Felipe Reyna, or one of his assistants had two months to file the case if they chose to.

The case was retired by former Feazell first assistant Dennis Green, who is now a U.S. magistrate in Waco. Green cited prosecutorial discretion and a requirement that Conover attend counseling sessions as his reason for not filing the case, Richardson said.

In the first segment, Duncan said a select few attorneys in Waco are charging unusually high fees to their clients, whose DWI cases ended up being dismissed.

Under questioning from Richardson, Duncan acknowledged Friday for the second time during the trial that some viewers could have gotten the impression from his broadcasts that Feazell was taking bribes to dismiss cases.

"But that's for each viewer to decide. The scripts and broadcasts speak for themselves," Duncan said.

[Handwritten notes and signatures in the right margin, including the name 'Tommy Witherspoon']