

The following is a "**Secret Chapter**" not published in the original version of "Guilty Until Proven Innocent":

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Corruption in Kerrville, Texas

Corruption in Kerrville? A bias judiciary? Are these elements that contributed to my wrongful conviction?

It is essential to get a panoramic view of the cast of characters playing upon the 'justice' theatre in the 198th Judicial District, Kerr County, Texas. Often the public assumes that an elected official is beyond reproach and never abuses their position of authority for self-interests. This romantic notion is a falsity - Human nature tends to be corruptable and in Kerrville it appears the residue of corruption has seeped deep into the foundation of the judicial system. The stain is now impossible to remove.

Former District Attorney **Ron Sutton** was the lead prosecutor in the 198th Judicial District for 32 years - from 1976 until December 31st, 2008 when he "retired" [1]. Although Sutton's retirement preceeded my arrest in August 2009, he is still a central character in understanding the less than honourable reputation of Kerr County justice.

During the election campaign of 2008 to succeed Sutton, Democrat **Richard Ellison** decried what he called improper spending from the county "slush fund" (forfeiture funds) that once topped \$1.5 million. "I believe there is evidence of misappropriation of public money, illegal gifts to public officials, failure to declare income on tax filings and financial disclosure statements required of public officials, and money laundering" Ellison told the Texas Rangers in a June 13th, 2008 letter of complaint [1]. Ellison had obtained financial records from Sutton by filing an Open Records request. According to Ellison (and later substantiated) the records showed thousands of dollars had been illegally spent on trips to Hawaii for Sutton, former Judge Prohl and their staff and spouses. The justification used for these trips was to attend "Texas Independent Bar Association" conferences [3]. Sutton had previously defended the trips as "legitimate expenses" adding, "I went there four times in the last five years" [1]. However, as was reported on CNN, the week-long conference - which combined "law and luaus" (luau = Hawaiian feast) - only contained 10 hours of actual class time [3].

The question should also be asked why a conference of the TEXAS Independent Bar Association would be held in Hawaii. Either way, Ellison's letter kicked off an investigation that resulted in Sutton's indictment on two charges of misapplication of fiduciary property, a third-degree felony [1]. The indictment, issued Wednesday December 16th, 2009, alleged Sutton "intentionally, knowingly, and recklessly" misapplied forfeiture funds for travel and staff bonuses, in "a continuing course of conduct", from January 2002 until his retirement in December 2008 [1,4]. The records obtained by Ellison also indicated that Sutton had written checks totaling \$14,500 directly to Judge Karl Prohl. [3].

On September 15th, 2009, everyone in Kerrville was surprised when the District Judge for the 198th Judicial District Court, **Judge Karl Prohl**, suddenly resigned after 18 years on the bench, and with more than a year left in his term. The Kerrville Daily Times reported on how Judge Prohl's letter of resignation - effective immediately - shocked the Courthouse [2].

By filing the Open Records request, Ellison had discovered checks written by Sutton to Prohl totaling \$14,500 [3]. Ellison submitted copies of the cancelled checks and banking records to the State Commission on Judicial Conduct [3]. The investigation that ensued resulted in Prohl's sudden resignation [3]. It was later revealed that his resignation was strategic because it resolved three complaints filed with the State Commission on Judicial Conduct that accused Prohl of bias due to receiving money from Sutton [6]. However, the Attorney General's investigation revealed that Prohl had also received money from different sources [3].

On Thursday February 11th, 2010, former 198th District Judge Karl Prohl was indicted on a felony charge of theft by a public servant - if convicted, Prohl faced 20 years in prison on the second degree felony [3,6]. Prohl's charges involved \$34,706 purportedly received from public monies tagged for travel-related expenses [2]. Within the indictment is a tally of seventeen different payments made to Prohl through four different sources.

On October 23rd, 2009, Texas Governor Rick Perry appointed Kerr County Attorney Melvin "Rex" Emerson Jr. to fill Prohl's unexpired term on the bench [3].

On April 12th, 2010, Former District Attorney Ron Sutton pleaded guilty to two counts of misapplication of fiduciary property. The plea deal struck required Sutton to serve two years deferred adjudication probation and pay a \$20,000 fine [6].

On May 21st, 2010, only minutes after being sentenced, a "defiant Sutton" made the claim that officials eager to tighten statutory controls over forfeited funds orchestrated his prosecution to cast him as evidence of a problem. Sutton alleged prosecutors "had to twist the statutes" to create an offense despite the fact the Texas Constitution prohibits staff bonuses like those Sutton paid of \$500 and \$1000 to 11 subordinates between 2002 and 2008 [5]. Special prosecutor Jerry Strickland of the Texas Attorney General's staff said Sutton's remarks "reflect a regrettable lack of remorse for his own illegal conduct" [5]. Sutton's remarks likely stem from the sense of impunity he enjoyed after 32 years as the prosecutor in Kerr County. Sutton even publically complained that he didn't fight the charges because he couldn't afford a trial, which could have cost as much as \$50,000 - nor risk being convicted [5]. Yet Sutton satirically had no qualms forcing hundreds of other people into pleading guilty who were less financially secure as he was. It is not much fun when the rabbit has the gun!

Because the plea deal called for Sutton to get "deferred adjudication", no conviction would result if he successfully completed the two year probation [6]. The lack of news articles suggest Sutton achieved exactly that.

It is fair to say that a tree that bares bad fruit at the top of the tree is often rotten down to its roots. Simply removing the bad fruit does not cure it - especially considering how entrenched Prohl and Sutton were and how long they both served in those positions of authority.

Prior to my arrest, Amos L. Barton was Sutton's Assistant District Attorney. Barton was reportedly one of the 11 subordinates who accepted the illegal staff bonuses and trips to Hawaii from Sutton. Ellison noted that on a required financial report Barton filed with the Texas Attorney General, Barton listed paying \$33,000 on Sutton's credit card [3]. There was no explanation for this so-called expenditure - "Maybe some reporter should ask Amos about that", Ellison said [3]. When Sutton "retired", Barton inherited the throne as the District Attorney of the 198th District Court. This is how Barton became the prosecutor over my case.

Even after pruning the branches that bore bad fruit, the new growth still resembled the old. Barton hired Mississippi native **Brad McCullough** as his assistant. But McCullough already had a history of misconduct. The Mississippi Supreme Court held that McCullough committed "serial misconduct" during a 2004 trial of a man accused of aggravated assault [7]. This forced him to move to Texas where in 2010, as Barton's Assistant District Attorney, a judge declared a mistrial in a sexual assault case due to McCullough's "tainted declaratory statements". In 2012 he caused yet another mistrial by improperly mentioning extraneous offenses [7]. McCullough says those incidents, while regrettable, reflect his drive to see criminals convicted. Even if it requires breaking the law? This "drive" gets innocent people convicted.

For whatever reasons, Barton decided that he would not re-run for District Attorney in the 2012 election. Instead Barton endorsed McCullough to secede him - but this was contested by local attorney **Scott Monroe**. Backers of Monroe alerted Barton to allegations that McCullough had been having sex with a co-worker. After the allegation became public, McCullough resigned as Barton's assistant, saying he wanted to devote himself full-time to his campaign [7]. Barton publically stated that the claims of adultery and inappropriate sexual conduct couldn't be substantiated - but withdrew his endorsement of McCullough and said that he wouldn't rehire him [7].

Ultimately McCullouch lost the election to the present District Attorney Scott Monroe. Barton disappeared into private practice.

These are the cast of characters from Kerrville. The very ones who assassinated my good standing and reputation. They contaminated the media with misinformation and deliberately violated my rights to force me into a conviction. That conviction was then used to legally blackmail Camp Stewart and Camp America into settlements worth \$9.2 MILLION. To say that I could ever get a fair trial in such a place and under such conditions is beyond ignorant. Money is the language of corruption in Kerrville, Texas.

- Scott Zirus-

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