

Aide says he, not DA dropped case

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AUSTIN — An assistant to McLennan County District Attorney Vic Feazell said Thursday that he dismissed a criminal case in which Feazell is accused of accepting an illegal payment and improperly reporting its disposition.

David Scott, who testified he was not a licensed attorney in Texas when he handled the 1984 driving while intoxicated case of Lloyd Edwin Perry, testified the case was his and he decided to dismiss it.

Scott, who still is not licensed to practice law in Texas, was called by government prosecutors during the eighth day of Feazell's racketeering and mail fraud trial.

Scott's testimony appeared to help Feazell's case more than harm it, but Assistant U.S. Attorney Jack Frels promised after court recessed that forthcoming details about Perry's case supplied by other witnesses will not be as favorable for the 35-year-old district attorney.

Scott reviewed Perry's August 1984 DWI case under questioning from Frels and said he, and not Feazell, authorized the dismissal of the charge.

Feazell is charged in a 10-count federal indictment with accepting illegal payments from five Waco defense attorneys to influence the handling of cases and with mailing falsified case disposition reports to law enforcement agencies.

Scott told Frels he initially recommended a punishment in the case in exchange for a guilty plea, but said "some additional information" must have come up in the case to make him decide to dismiss it. He said he could not remember what that information was and the case file did not reflect what made him change his mind, he said.

He said since he was not a licensed attorney, the dismissal motion was signed by Pat Murphy, Feazell's former first assistant. Scott, a Feazell assistant since

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September 1984, has failed in several attempts to pass the Texas bar examination.

"As a new prosecutor, I was more willing to try a case than dismiss it. There must have been a good reason for me to dismiss it," Scott said.

Under cross-examination from defense attorney Gary Richardson, Scott said Feazell had nothing to do with the case and added he seldom saw Feazell when he first was hired.

In other testimony Thursday, five former clients of Waco law partners Don Hall and Dick Kettler testified they paid the attorneys large legal fees for their representation and rarely heard from

the cases again.

Herbert McCaslin Morrow, 33, of Waco, an electrical company repair specialist, said he was arrested in May 1983 and June 1984 for DWI and Hall represented him on both occasions.

He said on the second charge, he paid Hall \$2,500 and never appeared in court. He said he was never told what happened to his case.

"He told me that if I didn't hear from him, not to worry about it," Morrow said.

Morrow's first DWI defense was arranged by an attorney who represented Morrow's former company. Fred E. McDonald testified that he represented Home Craftsmen Co., whose officials were concerned that Morrow, a top sales-

man, would lose his driver's license because of the charge.

McDonald said a civil attorney in Waco that he contacted recommended he hire Hall to represent Morrow. McDonald said he sent Hall a check for \$2,500 after Hall guaranteed that the case would be dismissed or the money would be returned.

James Kolacek, a bakery owner in West, testified he hired Hall after his April 1985 DWI arrest.

Kolacek said he paid Hall \$3,000 in cash after Hall assured him the arrest could be "fixed."

"He said he and Vic Feazell used to be partners together and Vic Feazell owes him some favors and he might could get it dismissed," Kolacek said of Hall, who with Kettler shared offices with

Feazell before his election in 1982.

James Fauver, a McLennan County Jail inmate, said he hired Kettler to represent him on a March 1985 DWI arrest and after officials filed a motion to revoke his felony theft probation.

He said he paid Kettler \$5,300 to handle both criminal proceedings, which were dismissed.

Tom Ed Harris said he paid Kettler \$3,700 to represent him after his October 1984 arrest for possession of synthetic heroin with the intent to distribute.

He said he was on parole after serving 20 months for theft and told Kettler he did not want to return to prison.

Kettler told Harris he would have to pay him some money up front to "get him working" and then pay him \$100 a day and \$300 on Mondays until the \$3,700 was paid. He said he gave Kettler about \$250 initially and then returned most every day with cash.

"When I paid that last money, he had me sign this paper and that was it," Harris said.

He said he never went to court on the drug charge, but was sent back to prison for 90 days after a

motion to revoke his parole was filed.

Derek Turner of Waco said he hired Hall by "the luck of the draw" after his February 1985 arrest, paid him \$3,500 in cash and never heard from Hall again until he learned that his name was listed in Feazell's indictment. He never went to court and was never told what happened to his DWI case.

In other testimony, four FBI agents and a Department of Public Safety investigator who participated in the search of Feazell's home, office and storage building testified about their actions when Feazell was arrested on Sept. 17.

Two agents testified they seized index cards and case files bearing the names of DWI defendants named in Feazell's indictment from Feazell's office safe and from the bottom drawer in his desk.

DPS agent Tommy Davis said he seized a .357-caliber pistol from Feazell's bedroom closet.

Also Thursday, U.S. District Judge James Nowlin barred George Merilian, a former investigator in Feazell's office, from entering the federal courthouse.

Richardson alleged that Merilian, who was fired by Feazell, was giving "pep talks" to witnesses against Feazell before they testified.

After U.S. marshals escorted him from the building, Merilian said he merely was telling the witnesses to relax and tell the truth.

He said Feazell sought his removal from the courthouse because he "felt intimidated" by Merilian.

DPS agents have testified that much of the information they gathered about Feazell in the early stages of their investigation came from Merilian.