



Judge considers dismissing indictment

AUSTIN (AP) — A federal court is considering a defense claim that the McLennan County district attorney was indicted in retaliation for opposing the Texas Rangers and others in the Henry Lee Lucas investigation.

U.S. District Judge James Nowlin told a two-day pretrial hearing ending Tuesday that he would rule next week whether the racketeering indictment against Vic Feazell should be dismissed for "prosecutorial misconduct."

"To me, it was a clear indication of an effort to put a par-

ticular public official in his place," Attorney General Jim Mattox testified Tuesday. Mattox worked with Feazell in 1985 during a Waco grand jury probe into murders once claimed by Lucas, who ultimately recanted hundreds of slaying confessions.

Feazell, 35, is charged with accepting bribes to influence disposition of cases in his Waco district.

Nowlin also will rule next week on a defense motion to transfer the trial back to Waco. Feazell says he cannot afford an Austin

trial.

"We contend the conduct of government attorneys shows a retaliatory attitude that attributed to his indictment," Gary Richardson, Feazell's attorney, told Nowlin.

"If you have additional evidence, submit it by Friday," said Nowlin. "However, in the court's review of the grand jury records I see nothing unusual."

Nowlin said there must be "a showing of actual prejudice" to cause a dismissal.

Government witnesses testified

Tuesday that the investigation by Department of Public Safety and federal officials began before Feazell convened the Waco grand jury for Lucas.

Lucas had been confined in a Williamson County jail and was working with a DPS task force probing out his confessions.

But Mattox testified that "I have never seen any documentation that an investigation was under way before the grand jury."

"It became obvious that Lucas could not have and did not com-

mit the large number of murders he confessed," Mattox said. "And a lot of law enforcement officials had cleared cases because of Lucas statements. The Texas Rangers (involved in the task force) were clearly embarrassed."

The Waco state court investigation of Lucas was later taken over by a federal grand jury in San Antonio.

"The Justice Department and FBI were doing something that had nothing to do with convicting Lucas," Mattox told reporters outside the courtroom. "They

were trying to protect the DPS and the Texas Rangers from an extremely embarrassing situation."

Mattox said he talked to Justice Department officials in Washington and warned them that they "maybe were unwittingly taking part in a massive fraud."

Mattox admitted on cross examination that FBI agents told him in Waco they entered the case because Lucas did not have an attorney and his civil rights were threatened.