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The Manuel Tapes

He's guilty — but was he set up? Legal experts differ

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By TIFFANY PAKKALA

There is no shadow of a doubt that former St. Johns County Commissioner Tom Manuel took \$60,000 in bribes — and he knew it was dirty money.

For that, he was sentenced on Jan. 28 in U.S. District Court in Jacksonville to 21 months in prison, 16 months of house arrest and three years probation. It marked the end of an FBI investigation that kicked off in early 2007, just months after he took office.

But how the case began may never come out of the shadows.

Manuel, 64, of St. Johns, said from the beginning that he was set up, and two legal experts who reviewed the case for The Record said it had the elements of a solid entrapment defense. Others said Manuel would have had no case.

They all agreed the federal courts are the toughest to navigate, and they said that even innocent defendants plead out rather than risk the harsh sentence that comes with a guilty verdict.

The prosecutor in Manuel's case, Assistant U.S. Attorney Julie Hackenberry Savell, said this was a simple case of greed. She portrayed Manuel in court as a bully politician who used his position in St. Johns County to get money for himself. She had material from 14 months' worth of wiretaps to back that up, not to mention a signed confession from the night in June 2008 that Manuel was taken into FBI custody.

Manuel signed a plea agreement last

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July, admitting he accepted the \$60,000 cash in exchange for his vote to buy land from the Twin Creeks Development of Regional Impact and in exchange for his support of future business with the Falcone Group LLC, which owns Twin Creeks. The deal cut a potential 20-year sentence down to three to four years and greatly reduced the fines he would have to pay.

The plea agreement says Manuel pressured Falcone Group land consultant Bruce Robbins, who was cooperating with the FBI, to donate to various charities, threatening to "lock him out of future business in the county" if he did not cooperate. The pressure began as soon as he was elected in November 2006, the court document says.

But Manuel has since told The Record that it was Robbins who approached him and asked for ideas about where to donate. He said Robbins told him the Falcone Group routinely gives money to charities to show it supports the communities it builds in, and that he was open to suggestions on where the money should go. Manuel said he thought the donations would be legitimate, not bribes.

In fact, Robbins has given money to a charity under a politician's direction at

least once before. In 2006, he gave \$10,000 to the St. Johns County Public Library System at the suggestion of then-Commissioner Karen Stern, who lost re-election.

Robbins declined comment and referred all questions related to the case to the prosecutor, Savell. He said there was "nothing more to say" about the case beyond what would only be "fodder for a story." Savell did not respond to calls and e-mails seeking comment.

Manuel said he was shocked when, instead of donating to charities, Robbins presented him with envelopes of cash. In dire financial trouble, and more than a little drunk, Manuel took the money - but only after debating about it for 20 minutes while the first envelope lay on the table. That part of Manuel's side of the story is on video, which The Record has reviewed.

But Savell pointed out in court that Manuel warmed quickly to the idea of taking the cash. He talked about placing the money in "offshore accounts" and asked Robbins to come up with a "different structure" for future payments.

Two months later, he accepted \$50,000 more in cash from Robbins, undermining his defense that it was out of character for him to accept a bribe.

Dueling arguments

If Manuel could convince a jury that he truly didn't initiate the idea of taking bribes for his influence, he would have had a fighting chance at proving the first requirement in an entrapment defense: that he wasn't predisposed to commit the crime, said some legal experts. The second requirement is to prove the government used an "extraordinary inducement" - something the average person wouldn't be able to turn down - to make him commit the crime.

Professor Mike Seigel of the University of Florida's Levin College of Law said it's rare to see a successful entrapment defense because most defendants have a criminal record. Manuel's record was clean.

Coupling that with his financial trouble, Seigel said, the \$60,000 in bribes "would have been a pretty large inducement under the circumstances. It very well might have been a winning entrapment defense."

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Professor Robert Schuwerk of the University of Houston Law Center isn't convinced.

"The fact (Manuel) might have been extraordinarily vulnerable to a cash payment isn't going to make much of a difference," he said. "An extraordinary inducement is something more like playing on the sympathies of the person you're trying to bribe."

For example, if Robbins had convinced Manuel to vote for something to save Robbins from some kind of extreme trouble, that could have qualified as an extraordinary inducement under Schuwerk's explanation.

Jeff Brown, a St. Petersburg defense attorney who regularly weighs in on cases on HLN's "Nancy Grace," said it was "at least worth looking at" an entrapment defense.

"You are admitting you took the bribe, did the crime, but normally would not have done the crime but for (Robbins') suggestion to you, and it was always his idea to begin with," he said. "I think this case might have had a very good entrapment defense, but it's a risky defense."

West Palm Beach attorney Ron Chapman considered an entrapment defense for one of his recent cases, in which a woman was taped accepting bribes. But he decided against it because the woman was offered an out on the tape — and she didn't take it.

Similarly, when Manuel was offered the first envelope of cash, Robbins told him, "If you don't want to take this, that, that's okay."

"It wasn't an accident that he said that," Chapman said. "If (Manuel) didn't put up much of a fight, he's going to have a hard time arguing that he was not predisposed to commit this crime."

In addition, he said, when someone commits the crime a second time, the case for entrapment is severely weakened.

Manuel accepted \$10,000 in April 2008, then he took another \$50,000 two months later.

Chapman, the host of an extensive blog on Florida's criminal cases, said entrapment defenses are especially dangerous because the defendant has to admit he is guilty from the beginning. Before the jury deliberates, a judge has the right to say there was not enough evidence presented to prove that the defendant was induced, which means he couldn't have been entrapped.

"Talk about being up a creek without a paddle," Chapman groaned.

The tough system could be the reason Manuel decided to plead guilty.

Flagler Beach attorney John Tanner, a former state's attorney for the district that includes St. Johns County, said federal cases are so tough to win that some defendants don't dare go to trial, regardless of guilt.

"The consequences of taking a case to trial and losing are severe. It's not unusual, even if they believe they have a good defense, to enter into a plea deal," he said.

St. Petersburg's Brown agreed.

"Sometimes people plead to things only because they can't afford to go to trial and lose," he said. "To go to trial in (Manuel's) condition and lack of funds wouldn't have been worth it. The federal government forces people to make pleas."

Political enemies?

Whatever the truth is, Manuel has portrayed his case as a setup from the day news broke about it.

He was taken into FBI custody June 5, 2008. A week later, on June 13, several newspapers reported that he was under investigation. In The Record's story, Manuel was quoted saying it was part of a "political hatchet job."

He later blamed his "political enemies," including St. Johns County Sheriff David Shoar, who was the first to confirm to The Record that Manuel was under investigation. For unclear reasons, the FBI taped Shoar talking about his role in the investigation. He said on the tape that he reported Manuel to the FBI after Falcone attorney George McClure of St. Augustine told him something about Manuel that bothered him. Manuel believes Shoar wanted him out of office because he was challenging the sheriff's budget.

Shoar has consistently defended his role in the case. He told The Record the FBI gave him permission to confirm to the press that Manuel was under investigation, and that Manuel was simply a "crook" who was looking for cash handouts even before he officially took office.

There was also the question of what the bribes were really for after county officials confirmed the land deal at C.R. 210 and Interstate 95 that Manuel was accused of

accepting money to approve was in fact not controversial. All the members of the County Commission unanimously approved it and, in fact, Manuel campaigned on the issue. He wrote a letter to the editor in The Record before he was elected saying the land deal would allow the county to at last fix the dangerous intersection.

County Administrator Mike Wanchick testified in court that Manuel had no role in determining the price. Manuel also was accused of promising future support to the Falcone Group, but the developer didn't have any future motions coming up in the county and still doesn't.

As it turns out, none of that matters to the courts. The only thing that matters is what Manuel thought the money was for. If he thought it was for his influence or even a "thank you" for his vote, it was a bribe.

Manuel can be heard on tape telling Robbins, "I would have voted for it regardless," indicating he knew the money was at least in part for his vote. And the two discussed strategy on tape about how best to win the other commissioners' approval for a fake plan Robbins presented Manuel that would have made Twin Creeks more commercial.

So Manuel's only argument in court would have been that he didn't realize he was being paid for his influence until the cash was on the table April 8, 2008. He would have had to convince a jury that his repeated requests for donations before that night were nothing beyond what any politician would do for a worthy cause.

Prosecutor Savell said in court there was ample proof that Manuel sought out the donations for his own political gain.

In one video she showed the court during Manuel's sentencing, Robbins says it is clear that he would be "screwed" in several counties if he didn't "do business right" with Manuel. The former commissioner laughs and says "uh-huh" and "yeah" several times as Robbins speaks.

There is one other instance on tape in which Manuel ties a threat to his request for donations. When Robbins asks what would happen to "poor Bruce" if he didn't donate to Manuel's Committee of Continuing Existence, Manuel answers, "Oh, Bruce gets screwed."

Manuel claims the comments were said in jest, and that he never intended to change any vote based on Robbins' support or lack of it. UF's Professor Seigel said it would have been up to a jury to decide whether the tapes supported that claim.

But if his requests for donations were innocent, why wasn't Manuel willing to put them in writing?

When Robbins asks him during a lunch meeting Aug. 31, 2007, to e-mail him a list, Manuel answers, "A lot of the things I don't do in writing as you understand, Bruce."

And though he doesn't promise his own vote in exchange for donations, he does tell Robbins that if he supports the local arts and senior citizens, he'll "get Ron," referring to Commissioner Ron Sanchez.

The men never discuss on tape how their conversation on donations began.

Manuel tells one story, court records tell another. Only Manuel and Robbins know for sure.

Unanswered questions

Today is the first installment in a series of articles The Record will run on Tom Manuel's case.

We hope to answer many of the questions left hanging after the case came to a close late last month, when Manuel was sentenced. But we also know there are questions we may never be able to answer.

After reviewing 14 months' worth of wiretaps, dozens of court documents, and interviews with various experts, here are some questions we still cannot answer:

Was this the only time Manuel had accepted cash from people doing business in the county, or was there more the FBI could have uncovered?

Was Manuel the only county official the FBI was watching?

Why did it become a federal case, as opposed to a state case?

After Manuel was taken into FBI custody, he agreed to cooperate. But his stint as an informant was cut short after news of the investigation leaked into the press. Even Julie Hackenberry Savell, the prosecutor, said Manuel was expected to be useful as an informant. What more might have come out about business in the county if he had

continued to cooperate?

How did news of the investigation break in the first place?

Why did the FBI direct St. Augustine attorney George McClure, who was working as a confidential informant, to tape a conversation with Sheriff David Shoar? McClure told The Record the FBI wanted to know what the sheriff said in a phone conversation with Manuel. We now know Manuel was cooperating with the FBI at the time and had already taped the conversation with the sheriff. Did the FBI ask McClure to tape any other conversations with Shoar or other county officials?

This series will raise as many questions as it answers. We'll leave it to our readers to decide what the truth is.

About the reporter

Tiffany Pakkala is a former Record reporter who covered Northwest St. Johns County. She left The Record and the state of Florida when her husband deployed to Afghanistan shortly after their first child was born. Back in the Jacksonville area, she is now a stay at home mom, and she also freelances for The Record. She has been working as the lead reporter on this investigative series for six months. She may be reached at tiffanypakkala@gmail.com

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