



Gerald Minsky

In November 1990, Gerald Minsky, a Westport, Connecticut investor, and two other men were indicted by a federal grand jury in Kentucky on charges of conspiracy and mail and wire fraud for allegedly killing a racehorse in Florida to collect on a \$20,000 insurance policy.

The indictment charged that in November 1987, Minsky conspired with Dr. Joseph Brown, a Kentucky dentist, and Robert West, a Kentucky bloodstock agent, to inject a lethal dose of insulin into Minsky's racehorse, McBlush. According to the indictment, Minsky proposed killing the horse because it had broken down, and killing it would erase a debt that Brown owed to Minsky.

Brown and West pleaded guilty to conspiracy in the death of McBlush and testified against Minsky at his trial in April 1991. In return for their testimony, prosecutors dismissed charges against Brown and West in connection with the killing of another horse in Florida in 1990.

At trial, the prosecution's case rested entirely on the testimony of Brown and West. There was no medical evidence that McBlush died of an overdose of insulin—in fact, medical experts testified that the horse seemed to have died from colic, a common cause of death in horses.

Brown testified that in 1985 he purchased a horse named Fran Nasra for \$100,000 in cash plus a \$100,000 promissory note. Six months after the purchase, the promissory note was assigned to Minsky. By 1987, Brown had made some payments, but still owed Minsky \$50,000 plus interest. Brown said Minsky pressured him for payment and when Brown was not forthcoming, Minsky said he would forgive the debt if McBlush were killed.

West, Minsky's former employee, testified that Minsky called him—not Brown—in September 1987 and asked him to kill McBlush. The horse had been injured and his value had plummeted—there was speculation that McBlush was only worth 50 cents a pound as horsemeat.

West testified that during a conference call, all three men discussed applying the proceeds of the insurance on McBlush to reduce Brown's debt. Brown did not refer to this call in his testimony and no telephone records were produced to confirm that the call occurred. Although Minsky's secretary testified that she overheard the call, the trial judge said her testimony was "too fantastic to be true."

Brown testified that on November 4, 1987, the three-year-old McBlush was killed with an injection of waste water and insulin. Minsky contended that the government failed to establish any motive—no explanation was given for why Minsky would be willing to forgive a \$50,000 debt upon the death of a horse insured for \$20,000.

Minsky was convicted by a jury in U.S. District Court on April 23, 1991. He was sentenced to 18 months in prison, fined \$100,000 and ordered to pay \$82,000 in restitution.

State: Fed-KY

County:

Most Serious Crime: Conspiracy

Additional Convictions: Fraud

Reported Crime Date: 1987

Convicted: 1991

Exonerated: 1992

Sentence: 18 months; \$100,000 fine, \$82,000 restitution

Race: Caucasian

Sex: Male

Age: 42

Contributing Factors: Perjury or False Accusation, Official Misconduct

Did DNA evidence contribute to the exoneration? No

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Brown and West were both sentenced to five years probation, including six months in a half-way house, and each was ordered to pay \$9,500 in restitution.

On appeal, Minsky's attorney focused on a private review held by the trial judge of two FBI reports of interviews with Brown that the defense contended should have been disclosed to the defense.

The judge asked the prosecution to participate in the review, but not the defense attorneys. The reports contained a statement regarding a conversation between Brown and Jerry Healy, a friend of Minsky. Brown said that during the conversation, he told Healy about injecting McBlush with insulin and asked Healy to tell Minsky to "lay off" trying collect the debt. The reports showed that when Healy was questioned prior to trial, he said he had no recollection of any discussion with Brown about the killing of McBlush.

At the review, the judge asked the prosecution if they had told the defense about the existence of Healy as a potential witness. The prosecution said that Brown had taken a polygraph test during which he had been questioned about the conversation with Healy. The results, which suggested that Brown had lied, had been given to the defense. Therefore, the prosecution argued, the defense was on notice of the existence of Healy and the conversation with Brown.

Brown was recalled as a witness after the review and on cross-examination, Minsky's lawyer attempted to undermine his credibility by suggesting he was getting favorable treatment from the prosecution in exchange for his testimony. Brown said he did not expect a reduction in sentence as part of his deal.

The trial judge then asked the prosecution if the case was governed by federal sentencing guidelines and the prosecution said the case was not a guidelines case.

In May 2002, the U.S. Court of Appeals for the 6th Circuit reversed Minsky's conviction, ruling that the defense had been improperly excluded from the proceeding involving the judge and the prosecution. The court also ruled that the failure to disclose the information in the FBI reports was a violation of court rules requiring turn-over of favorable defense evidence.

The appeals court said that turning over the polygraph test results was insufficient. The defense, the court said, "could not understand the significance of the polygraph results since the defense had no way of knowing that Brown claimed to have told Healy of the alleged scheme and that Healy had denied the conversation."

The court said, "Had the jury learned of Brown's false statements to the FBI, it might have disbelieved his entire testimony."

A prosecution petition for a rehearing of the decision was denied in August 1992 and the prosecution then dismissed the charges.

– *Maurice Possley*

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