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Tuesday, September 16, 2008

No deal: Beatty heading to trial

Prosecutor toughened offer; legal experts say mayor's ex-aide waited too long to avoid harsh punishment.

Doug Guthrie and Christine MacDonald / The Detroit News

DETROIT -- Mayor Kwame Kilpatrick's former top aide, Christine Beatty, will take her chances in court after rejecting a plea deal Monday in her criminal case stemming from the text message scandal.

"What's next? Acquittal, and don't be surprised when that happens," Beatty's lawyer, Mayer Morganroth, said after three hours of closed-door plea-bargaining Monday in the chambers of Wayne Circuit Judge David Groner.

Facing perjury, obstruction of justice and misconduct in public office charges with penalties of up to 15 years, Beatty and her attorneys turned down a plea deal last week that would have put her behind bars for 60 days. They rejected an offer Monday that would have jailed her for 150 days -- a month longer than the deal Kilpatrick accepted on Sept. 4 when he pleaded guilty to two felony obstruction of justice charges and no contest to a third felony charge of assault.

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It isn't unusual for a prosecutor's plea deal to include harsher terms after being rejected, said Larry Dubin, professor at the University of Detroit Mercy Law School. But the three-month increase in jail time seemed steep, he said, and may be an indication of Worthy's confidence in convicting Beatty at trial.

"More typically, when you make a last-ditch effort to resolve a matter, you do not increase the demands, but rather attempt to resolve the differences. So I can only assume the prosecution, as of this point, is willing to go to trial," Dubin said. "It may seem to (Beatty) and her lawyers that her only opportunity to do better than the prosecutor's offers is to go to trial."

The perjury case against Beatty also may be stronger than the case against Kilpatrick because questions put to Beatty

during her testimony at a police whistle-blower lawsuit trial last year had been more direct, Dubin said.

Beatty's lawyers are likely to play for sympathy before a jury by portraying her as a victim of the mayor's ambition or his affections, he said.

"She certainly appears vulnerable," Dubin said. "All of the women involved with the mayor could be perceived as victims."

Wayne Circuit Judge Timothy M. Kenny was drawn at random Monday to serve as the trial judge and the sides were ordered to meet with him Friday for a scheduling conference. A date for the trial that Morganroth predicts could last months is likely to be set on Friday, the same day City Council President Kenneth V. Cockrell will be sworn as Detroit's new mayor.

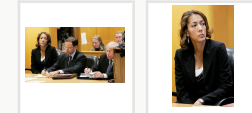
Morganroth said he will begin to file motions related to the evidence in the case next week. He will attack the 625,000 text messages the prosecutor has collected from five years of communication on city-owned pagers involving Beatty, Kilpatrick and others. Morganroth has maintained that he could win Beatty's case because he thinks federal privacy laws will make it difficult for the prosecutor to use the text messages as evidence in a trial. Worthy obtained the messages through search warrants and said she continues to investigate possible wrongdoing by others revealed in the messages.

Morganroth added that he is unconcerned about the possibility of Kilpatrick testifying at that trial.

"I don't think we'd be hurt by the mayor," Morganroth said.



Christine Beatty and her attorneys turned down a plea deal last week that would have put her behind bars, and another one Monday. (Robin Buckson / The Detroit News)



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The first deal

Christine Beatty has rejected two plea deals offered by Wayne County Prosecutor Kym Worthy:

- Plead guilty to two counts of obstruction of justice
Serve 60 days in jail
Wear a tracking tether for first 10 months out of jail
Serve five years probation
Pay \$100,000 restitution during probation

The second deal

- Plead guilty to two counts of obstruction of justice
Serve 150 days in jail
Wear a tracking tether for first 7 months out of jail
Serve five years probation
Pay \$10,000 cash restitution at sentencing
Pay \$115,000 more in restitution during probation

Mayor's deposition

Mayor Kwame Kilpatrick is scheduled to give a deposition in the Freedom of Information Act lawsuit filed by The Detroit News and the Detroit Free Press over the city's \$8.4 million whistle-blower lawsuit settlement. The deposition is scheduled to take place at 10 a.m. today at the office of Kilpatrick's attorney.

Beatty made no comments Monday as she pushed her way through a crowd of reporters leaving the courtroom. Her pastor, the Rev. Ronald Griffin followed, waving his hand to move the crowd. "Please. Respect! Please," Griffin said.

Morganroth declined to say what the sticking point in negotiations might be, except that the offers were "unreasonable." Although he said he had no quarrel with the four assistant prosecutors with whom he negotiated Monday, he made a reference to Worthy's personal impact on the process by adding he was frustrated "with what one person is doing."

Worthy's spokeswoman, Assistant Prosecutor Maria Miller, declined to comment afterward on negotiations or Worthy's part in them.

The stalemate in plea negotiations doesn't necessarily end the possibility of a plea. In many cases, prosecutors and defense attorneys strike deals even as jurors deliberate.

The defense has argued Beatty should be shown leniency in talks because she has sole physical custody of her two young daughters and is struggling financially, having resigned from her \$142,000-a-year job as Kilpatrick's chief of staff in January -- before charges were brought in March alleging the two lied under oath during a police whistle-blower lawsuit trial that was settled with a city payment of \$8.4 million. Part of the settlement kept secret text messages sent to and from Beatty, the mayor and others that allegedly show they lied.

Beatty didn't offer the one thing that was expected from her: to testify against Kilpatrick in exchange for favorable treatment. Now, legal experts say she has waited too long to avoid harsh punishment. Once Kilpatrick cemented his own bargain by pleading guilty Sept. 4, she had nothing to exchange.

"The saying in the business is, whoever gets to the window first gets the best deal," said Curt Benson, a Cooley Law School professor. "But for reasons known only to Christine Beatty, she chose intentionally and I'm sure with her eyes wide open and fully aware of the consequences of her inaction, to let the mayor go first."

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