
Provezano Trial

Justice Department outsmarts itself

by Richard Magraw

As the federal trial of three Teamster leaders goes to the jury after six weeks of testimony in Newark, New Jersey, it is clear that the Justice Department never had a shred of evidence against the defendants in its most glaring frameup to date. On April 22, the defense rested its case. Judge H. Lee Sarokin stated while the jury was out of the room: "It is my personal view that I shouldn't hand the indictment over to the jury" because of the utter shoddiness of the prosecution's case.

The Justice Department charges that Salvatore Provenzano, an IBT international vice-president and president of New Jersey Joint Council 73; Nunzio Provenzano, president of IBT Local 560, and Michael Sciarra, a business agent for Local 560, participated in a kick-back scheme. The crux of Justice's case was set forth by Federal Prosecutor Thomas McKay when he accused the defendants of not calling enough strikes during the period from 1976 to 1979! McKay declaimed that the only possible motivation for the lack of strikes was that the Teamster officials had to be receiving payoffs. As the record shows, however, the Teamster leadership, although maintaining a well-known adversary relationship to trucking management, has consistently promoted the view that the interests of their men and the country's transport are best served if labor grievances and disagreements are resolved quickly and informally at the local truck terminal level. Strikes are a weapon only to be used if all negotiations have failed.

A fourth codefendant, Irving Cotler, an Englewood, New Jersey businessman, admitted through his lawyer that he and a commodities broker, Raymond A. Dee, had concocted a scheme to solicit bribes from trucking executives and brokers using the Provenzanos' names—without their knowledge—in exchange for promises of "labor peace."

The prosecution prevented Cotler from testifying before the jury. The reason was that Cotler's testimony would undercut the assertion of a conspiracy involving the Provenzano brothers, and the charges would have been thrown out. This would not have precluded prosecuting Cotler at a later date. But, given the Justice Department's interest in destroying the Teamsters, rath-

er than obtaining criminal justice, the prosecution strenuously objected.

Justice followed its standard script, starting with a media blitz on "organized crime." The prosecutor then took a crime that had been committed—the payoff scheme by Cotler—and, through association, innuendo and circumstantial evidence tried to link his Teamster targets to it. The jury has been treated to a parade of testimony from bought-and-paid-for government witnesses who swore that the defendants were involved in the scheme. The key Federal Witness Protection Program witnesses, "Little Ralphie" Picardo and Joseph G. Szapor, both faced long stretches in prison at the time they joined the program. Both freely admitted to the jury that they would do anything to avoid prison. Their convictions and pending charges range from murder to hijacking and counterfeiting.

Defense counsel Jay Goldberg showed how each witness repeatedly changed his story on particular events depending on whom he thought the Justice Department wanted to target. Using grand jury and court transcripts and official FBI reports, Goldberg hammered away "very effectively," as Judge Sarokin put it, at Szapor's four versions of one particular meeting:

Goldberg: Did you say here that it was Mike Sciarra who made the call and gave you money?

Szapor: No. That's what I should have said.

Goldberg: You mean that's what you should have said according to the line given to you by the Justice Department?

Szapor: Yes.

The jury chuckled; the FBI agents in the courtroom groaned; and prosecutor McKay turned beet red. Goldberg continued: "Wouldn't it be fair, Mr. Szapor, to say that you would do anything in order to stay out of jail?" A befuddled Szapor replied, "Yeah."

Convicted murderer Picardo's testimony proceeded similarly. The defense asked him why in previous testimony on the incident he had cited only the name of Tony Provenzano, without mentioning Salvatore or Nunzio. He answered that the court records must be wrong.

On April 21 Judge Sarokin withheld judgment on a defense motion to dismiss all charges, based on the lack of credibility of the main prosecution witness, Szapor, without whose testimony the case would never have reached a grand jury for lack of evidence. The judge stated, however: "I certainly agree that Mr. Szapor's testimony and credibility are in serious doubt, not only because of the defendants' evidence, but also because of the cross-examination."

The defense has countered the payoff allegations by providing witness after witness who testified that the Provenzanos were exceptionally vigorous in pursuing grievance claims by union members. The jury begins its deliberations on April 27.