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Judge clears Whitlock of 2 obstruction charges

WOODSTOCK – The first woman brought to trial in the “Angel of Death” case has been cleared of all charges.

McHenry County Judge Joseph Condon on Wednesday found Penny Whitlock, 62, not guilty of two counts of obstructing justice. Prosecutors had said Whitlock, the former nursing director at Woodstock Residence, stockpiled morphine in her office and then ordered that it be destroyed a few days before a search warrant was executed at the nursing home.

Condon previously threw out five counts of neglect. Whitlock had been accused of doing nothing after being told that one of her subordinate nurses was overmedicating patients with morphine.

Prosecutors alleged it was Whitlock who dubbed Marty Himebaugh the “Angel of Death.” Himebaugh is accused of administering the drug.

But outside court after the verdict, Whitlock said she never used that phrase.

“The only angel that was here in this case was the angel of justice, whose wings were heard beating from Judge Condon’s bench,” Whitlock’s attorney, Nils von Keudell said.

Von Keudell said Whitlock wanted to quote McHenry County State’s Attorney Louis Bianchi, who was acquitted on criminal charges last month and said that he now knew what it was like to be falsely accused.

“But what Bianchi does not know is what it is like losing your professional license because of false accusations, losing your job because of false accusations, [and] losing your income because of false accusations,” von Keudell said.

In issuing his ruling, Judge Condon said the question came down to whether Whitlock’s destruction of drugs was routine, or if her motivations were sinister.

Ann Acevedo, the former assistant director of nursing who also has an immunity agreement, had testified that Whitlock ordered her to destroy the medicine because “the state” was coming to investigate.

“Was the defendant referring to the Department of Public Health in her words, or was she referring to the Illinois State Police?” Condon said.

Plus, the drugs were not destroyed by a person trying to hide something – Whitlock – but instead by Acevedo, Condon said.

“There’s nothing surreptitious about that,” he said.

Condon also pointed out that an investigator with the Illinois State Police answered the prosecution’s questions promptly but frequently had to review his reports when questioned by the defense.

“Apparently, he doubted his memory,” Condon said.

Two civil lawsuits remain that name Whitlock, among others. Steven Levin, who represents the family of one resident who died, Virginia Cole, said he was confident that the civil suit would have a different outcome.

“As a civil matter, the testimony that came out clearly indicated that the nursing home should have been aware of the wrongdoing that was happening at the home and should have taken steps far earlier,” Levin said.

A trial date has not been set for the charges against Himebaugh. Her next scheduled court date is May 24.

Phil Hiscock, chief of the criminal division of the McHenry County State’s Attorney’s Office, said that Whitlock’s acquittal would not affect Himebaugh’s case.

“We’ll evaluate what occurred in this case and apply lessons learned in the case of Marty Himebaugh,” he said.

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