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Case shed light on relationships between lobbyists, lawmakers

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Brent Wilkes walked briskly across a federal courtroom in San Diego yesterday afternoon and was ushered through a rear door by two marshals.

They were the first steps the 53-year-old Wilkes, once an influential Poway defense contractor, would take on the way to serving a 12-year prison sentence handed to him minutes earlier for bribing former Rep. Randy "Duke" Cunningham.

When the door closed behind Wilkes, so closed a major chapter in an unprecedented congressional bribery scandal – one that ended Cunningham's career, led to five criminal convictions and opened a window into the murky world of congressional budgeting and appropriations.

The effects of the scandal are still being gauged, and the sentence Judge Larry A. Burns gave Wilkes yesterday will be part of that analysis, legal and government experts said.

The case has already helped lead to new restrictions on the relationships between lobbyists and lawmakers.

"Twelve years is a considerable sentence," said local defense lawyer Michael Crowley, who was not involved in the case. "It certainly sends a message to anyone out there thinking of doing this sort of thing."

The sentence was less than the 25 years sought by federal prosecutors, and significantly less than what federal sentencing guidelines suggest. But it was also more than the eight-year, four-month sentence Cunningham is serving after pleading guilty to conspiracy and tax evasion in 2005.

The investigation unfolded after *The San Diego Union-Tribune* published a June 2005 Copley News Service story disclosing that defense contractor Mitchell Wade bought Cunningham's Del Mar-area home for an inflated price. Cunningham ultimately pleaded guilty to accepting \$2.4 million in bribes, the majority from Wade and Wilkes. Wilkes was accused of lavishing the congressman with meals, gifts, trips and prostitutes over nearly a decade.



HOWARD LIPIN / Union-Tribune

Poway defense contractor Brent Wilkes (left) and defense attorney Mark Geragos arrived yesterday at federal court in San Diego, where Wilkes was sentenced to 12 years in prison.

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Prosecutors also said he funneled \$636,000 in cash bribes to Cunningham – \$535,000 to pay off a mortgage on the congressman's Rancho Santa Fe home, \$100,000 for a boat Cunningham owned and enough money to pay the mortgage on the craft for several months.



Randy "Duke"
Cunningham

The former congressman pleaded guilty to conspiracy and tax evasion stemming from charges that he accepted \$2.4 million in bribes from Mitchell Wade, Brent Wilkes and Thomas Kontogiannis as early as 2000. He is serving an eight-year, four-month sentence in a Tucson prison.



Mitchell Wade

The former defense contractor pleaded guilty to bribing Cunningham and testified against Wilkes. His bribes, totaling more than \$1 million, included the purchase of Cunningham's Del Mar-area house at an inflated price. A sentencing date has not been set. He is free on bail.



Thomas Kontogiannis

The New York financier

pleaded guilty to money laundering and faces a maximum sentence of 10 years in prison. He financed Cunningham homes and bought the congressman's yacht at an inflated price. His December sentencing was delayed due to medical issues and has been rescheduled for May 16.



John Michael

The New York mortgage broker, who is Kontogiannis' nephew, pleaded guilty to conspiracy to commit money laundering and lying to a grand jury. His company processed bribe-funded mortgages on Cunningham homes. He faces a maximum of 10 years in prison at his sentencing May 5. He is free on bail.

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In November, a jury convicted Wilkes of 13 counts of bribery, conspiracy, fraud and money laundering. Wade, who had pleaded guilty earlier, testified against Wilkes and is awaiting sentencing.

Before the sentence was handed down yesterday, Assistant U.S. Attorney Philip Halpern verbally lashed Wilkes. He said Wilkes should get a stiffer sentence than Cunningham because the former congressman pleaded guilty early on, admitted to his corruption and forfeited most of his wealth.

In contrast, Halpern said, Wilkes remains defiant, has lived in his Poway mansion and was free while the case was prosecuted.

“We have a war hero on one side of the ledger,” he said, referring to Cunningham. “And on Mr. Wilkes' side of the ledger we have a war profiteer.”

Wilkes remained unrepentant in brief remarks to Burns during the 4½-hour hearing.

“Your honor, as you are aware, I have always maintained my innocence, and continue to do so,” he said.

That did not sit well with Burns, who said he did not believe Wilkes' testimony and found his insistence that he is innocent troubling.

“I don't have any strong feeling that he gets it,” the judge said. “I think if you were to do the right thing about this, today was the day to own up to it.”

Prosecutors said the government lost as much as \$50 million because of Wilkes' illicit schemes and worthless contracts.

In exchange for the gifts and money, Cunningham used his influence to place earmarks – the secretive process by which legislators designate funds for pet projects – into the congressional budget, then steered defense contracts to Wilkes.

Prosecutors estimated Wilkes and his companies got \$87 million in federal contracts between 1995 and 2004, and that the government got little of value in the deals. Hundreds of computers under one contract, for example, were not what the government wanted and remain in storage, unused.

Prosecutors wanted Burns to factor the government's losses into the complex federal rules that guide sentencing.

Burns said that gauging the losses, or how much Wilkes may have earned, was too speculative. Instead, he said he would use the amount of bribes the jury found Wilkes paid – the \$636,000 – in determining the sentence.



Kyle “Dusty” Foggo

Though not directly related to the Cunningham scandal, the former CIA official is accused of using his position to give Wilkes, a lifelong friend, the inside track on military contracts. A date has not been set for his trial on conspiracy, money laundering and wire fraud charges. The case was moved from San Diego to Virginia yesterday.

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The judge also said he did not think Wilkes could be considered a leader or organizer of the scheme – a factor that can also be used to enhance a sentence. Prosecutors had implied Cunningham was the leader when he was sentenced, Burns noted.

But that did not absolve Wilkes, whom Burns said cunningly zeroed in on Cunningham and exploited the congressman's weaknesses for his own ends.

“You're a shrewd fellow,” Burns said. “You sized up Mr. Cunningham and his weak ego, and his need to be fluffed, and you played on that.”

In the end, the judge settled on the 12-year term. He denied a bid to keep Wilkes free pending appeal.

Legal observers were somewhat surprised at the sentence.

“I'm sure Brent Wilkes didn't like sitting there and getting hammered by the judge,” said University of San Diego law professor Shaun Martin, “but the bottom line is he got less than what everybody thought he would get.”

Martin said the sentence was still significant.

One government reform expert said the Cunningham cases led to some lobbying reform measures and contributed to Democrats taking the majority of the House of Representatives – where Cunningham once served – in 2006.

“It has shaken things up more than I would have expected,” said Bob Stern of the Center for Government Studies in Los Angeles.

Some reform measures have been adopted, including one that tightened House rules on receiving gifts and trips from lobbyists. But other measures dealing with earmarks have not fared as well.

For their work exposing the Cunningham scandal, the *Union-Tribune* and Copley News Service were awarded a 2006 Pulitzer Prize for national reporting.

Also yesterday, Burns granted a government motion to dismiss Wilkes from charges pending in a second corruption case in which he was indicted along with Kyle “Dusty” Foggo, a former CIA official.

Burns ordered the case transferred to Virginia, where most of the alleged illegal acts occurred. Prosecutors said they have not determined if they will re-indict Wilkes in that district.

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