

Defense Claims Judge Overstepped in Fraud and Bribery Case, Requests New Trial for White and Hendricks

Calvert White and Benjamin Hendricks are seeking a new trial after attorneys argued that Judge Mark Kearney's responses to jurors on wire communications crossed into factual determinations reserved for the jury.

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From left to right: Calvert White and Benjamin Hendricks, found guilty of federal wire fraud and bribery, now seeking a new trial. By. WTJX.

On Thursday, attorney Clive Rivers, representing former Sports, Parks and Recreation Commissioner Calvert White, filed a motion seeking a new trial. Mr. White was [convicted of](#)

[fraud and bribery](#) last week alongside contractor Benjamin Hendricks. Hendricks's attorney, Darren John-Baptiste, has also filed a motion to join the request.

According to the motion, "the trial judge invaded the province of the jury when it answered a question of fact although there was sufficient evidence to establish an inquiry that was for the jury to decide." The filing further asserts, "The existence and effect of certain communications presented a factual question that was decided by the trial court instead of the jury." Attorneys argue that this action violated the rules of evidence.

The motion does not specify which question of fact presiding Judge Mark Kearney is alleged to have answered. Mr. Rivers has requested a 30-day delay in filing the accompanying memorandum of law, which is customary for such motions, until attorneys have received the trial transcript.

Earlier Consortium reporting noted that during deliberations, jurors asked Judge Kearney whether communications transmitted through servers outside the Virgin Islands qualified as wire transactions under federal law. Over defense objections, Judge Kearney instructed that text messages, phone calls, and emails meet the definition of wire communications. However, he did not rule on whether those communications satisfied the interstate commerce requirement under the wire fraud statute.

The court will now determine whether Judge Kearney's responses to jurors' questions during deliberations provide sufficient grounds to grant a new trial for Mr. White and Mr. Hendricks