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## Immunity Offers Scrutinized by Defense in Traffic Court Trial

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A defense attorney in the Philadelphia Traffic Court trial Tuesday scrutinized how prosecutors offered immunity to witnesses in the case.

During the cross-examination of FBI Special Agent Jason Blake, Paul Hetznecker, defense counsel for Chinatown businessman Robert Moy, said prosecutors did a spotty job of informing witnesses of the government's offers of immunity from prosecution.

Hetznecker said many of the witnesses didn't understand the nature of the immunity that was offered to them or that they were even tied to any illegal activity.

Using ticket holder Joanne Hu as an example, Hetznecker said Hu was offered immunity for her testimony during the trial, but not when she testified before the grand jury. Hetznecker noted that both testimonies were identical.

"What changed?" Hetznecker asked Blake, who said he did not remember.

Hetznecker asked Blake if the government was concerned that the witnesses might implicate themselves in a crime.

Blake responded, "We wanted them to be comfortable while they were testifying."

"Comfortable," Hetznecker said, "because of the threats [by] the government that they could be charged with a crime."

Hetznecker added that many of the witnesses had not even discussed the issue of immunity with the government before they testified, which Blake confirmed.

"They came in not knowing they were implicated in a crime?" Hetznecker asked Blake.

"Some of them," Blake said.

Before the line of questioning on the immunity offers, Hetznecker asked Blake about a ticket issued to Gordon Li, who allegedly went to Moy in relation to his traffic violation.

Hetznecker told Blake that the ticket was defective as there was no indication of where Li specifically was in Philadelphia when the texting-and-driving ticket was issued and that the officer's remarks section of the ticket offered no further explanation.

Additionally, Hetznecker asked Blake if he knew whether Li was represented by an attorney in traffic court when the ticket was adjudicated. Blake said there was no evidence that Li was represented.

Another ticket, this one issued to Stephen Cao for running a stop sign, was used by Hetznecker as an example of a defective citation. According to Hetznecker, Cao was a delivery driver who went to Moy after receiving a traffic ticket out of concern for the points attached to his license.

Hetznecker pointed to a statute providing that if a police officer is directing traffic, a driver may run a stop sign if directed to do so by the officer. Hetznecker told Blake that there was no indication on the ticket that Cao was not waved through the stop sign by a police officer.

Blake responded, "I've never seen a ticket that says, 'We weren't directing traffic through the stop sign when the person ran it.'"

Returning to the Hu matter, Hetznecker asked Blake if there was any record in the FBI interview transcript of Hu claiming that Moy would have her ticket fixed.

"Where does it say that my client guaranteed her a not guilty?" Hetznecker asked.

"It doesn't say that," Blake said.

"It doesn't say that at all," Hetznecker shot back.

"It just said that he would take care of the citation for her, it doesn't use the word guarantee," Blake responded.

Hetznecker further noted that Hu never met Moy in person to discuss the ticket and that when Hu testified during the trial, she couldn't even identify Moy.

Asking the defendants to stand up, Hetznecker said to Blake, "You can't ask for a more unconstitutional lineup than this. You would never put these individuals in a lineup together, would you?"

"No," Blake said.

Hetznecker then returned to the issue of whether or not his client guaranteed Hu a not-guilty verdict, asking similar questions to those he posed earlier and cutting off Blake before he could respond fully.

Presiding U.S. District Judge Lawrence F. Stengel of the Eastern District of Pennsylvania issued Hetznecker a stern warning.

"I'm going to ask that you let him answer the question, or we'll be done with this cross-examination," Stengel said.

On redirect examination, Assistant U.S. Attorney Anthony Wzorek circled back to the issue of defective tickets.

"Is this a tremendous game of 'gotcha' where somehow if one little phrase is missing, the entire ticket is thrown out?" Wzorek asked Blake.

"No," Blake said.

Wzorek referenced the statutes Hetznecker cited, but also pointed to others that explain that a defendant is obligated to raise any question of a defect in court and only if it is prejudicial to his or her case.

"So the defendant has to raise the claim, which I assume means he has to be there, and it has to be prejudicial to his case, yes?" Wzorek asked.

Blake answered yes.

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