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Final Edition

**Jurors: No 'Smoking Gun'; Prosecution vows to try again after former gov is convicted only of lying to FBI, with jury hung on 23 other counts**

By Natasha Korecki, Dave McKinney, Rummana Hussain and Sarah Ostman,

Staff reporters

After all the explosive secret FBI recordings, a slew of turncoats and thousands of pages of documents, a federal jury deciding Rod Blagojevich's fate said it wasn't enough.

Jurors were hung on 23 of 24 counts against the former governor, convicting Blagojevich of what's viewed as the least severe of the counts -- lying to the FBI.

The case that U.S. Attorney Patrick Fitzgerald once said would make "Abraham Lincoln roll over in his grave" lacked a "smoking gun," jurors said, and many of the charged schemes would have benefitted from the government allowing secret wiretaps to run longer.

"The lack of a smoking gun was one of the major flaws that we had addressed," said jury foreman James Matsumoto, 66, a retired videotape librarian from WTTW Channel 11 who lives on Chicago's Northwest Side.

One holdout juror stood in the way of convicting the former governor on the most explosive charges -- that Blagojevich attempted to sell President Obama's U.S. Senate seat. But jurors were sharply divided on other counts.

The Senate seat counts made up nine of the wire fraud counts against Blagojevich and each one was linked to a recorded phone call -- largely viewed as solid evidence.

"There was a fundamental difference in opinion,'' Matsumoto said, noting the split varied.

In some cases it was 7-5. In others it was 6-6. On some counts, there was just one holdout. Matsumoto said they cast their votes on secret ballots.

Matsumoto said he wanted to convict on all counts, but others strongly disagreed.

"The most damning evidence to me were the recordings," he said. "The other evidence presented by the prosecution, I believe they proved their case beyond a reasonable doubt. But to others they didn't. It's the same evidence, so it's just a matter of opinion."

Another juror, Erik Sarnello, 21, of Itasca said the government's case overwhelmed many of them.

"I think honestly it confused some people, just the way they presented it," he said. "We followed a timeline because [prosecutors] didn't really follow a timeline at all. They jumped around from 'this year, that year.' "

At six weeks, the government's case ultimately was shorter than jurors anticipated. Prosecutors didn't call baggage-heavy witnesses like convicted businessmen Tony Rezko and Stuart Levine.

Blagojevich was accused of trying to sell the Senate seat, at one point in exchange for a $1.5 million campaign donation from supporters of U.S. Rep. Jesse Jackson Jr. But no money changed hands and Blagojevich was arrested before he appointed anyone to the seat.

The conviction on just one count was a step back from last week, when jurors told the judge they had decided on two counts. Jurors said they were unanimous on count 14, which accused Blagojevich of attempting to extort Rahm Emanuel for campaign money. But that unanimity this week fell apart. Jurors said Tuesday they had agreed to convict Blagojevich on that count. But after a review of the evidence, they deadlocked on that as well.

While it's largely seen as a defense victory to eke out a mistrial in federal court, no one emerged happy on Tuesday.

Rod Blagojevich and his brother, Robert, must sit through another trial.

"I have lived through the most surreal experience anyone could live through," Robert Blagojevich told a crowd of reporters after court.

Witnesses' lives are on hold. Prosecutors face the embarrassing task of retrying a case they've investigated for six years at an estimated cost of more than $10 million, according to one legal expert.

The dramatic climax of the day came in the minutes before and after a verdict was announced.

A tension-filled silence gripped the courtroom. In a navy pinstripe suit, Rod Blagojevich sat at a defense table, fidgeting in his chair, while wife, Patti, was seated a few feet away, busily knitting on the same blue blanket she has been working on for much of the trial.

When a court official indicated the lone count upon which Blagojevich had been convicted, the ex-governor stared at the jury box and shook his head "no." Moments later, his wife leaned forward and put her head in her hands and wiped at one of her eyes.

Defense lawyer Sam Adam Jr. then reached his arm around Blagojevich as if to console him as he sat expressionless.

As jurors left the room, Blagojevich turned to his wife and mouthed the words, "You OK?" She did not answer beyond simply shrugging her shoulders.

Roughly 90 minutes later, a strikingly more defiant Blagojevich appeared before reporters and attacked Fitzgerald, the U.S. attorney, for nearly getting shut out in Tuesday's verdict.

"The federal government -- and this particular prosecutor -- did everything he could to target me and prosecute me, persecute me, put pressure on my family, try to take our home, take me away from our kids, arrest me," Blagojevich said.

"That very prosecutor said that he was stopping a 'crime spree' before it happened. Well, this jury just showed you . . . notwithstanding the fact that the government threw everything but the kitchen sink at me, that, on every count except for one -- on every charge except for one -- they could not prove that I did anything wrong."

Prosecutors shook off the jury's decision by immediately vowing to retry the former governor. The lead prosecutor in the case, Reid Schar, said he was ready to start jury selection the next day.

"It's absolutely our intention to retry . . . as quickly as possible," Schar told U.S. District Judge James Zagel.

Fitzgerald spoke briefly after the verdict, thanking jurors for their service and withholding comment since they plan to retry the case.

Courthouse observers long saw count 24 -- the lone count Blagojevich was convicted on -- as the most solid of the accusations of the ex-governor. The charge alleged that Blagojevich lied to the FBI in 2005 when agents questioned about his alleged participation in "pay to play" politics.

The count pointed to two false statements. One was Blagojevich's claim that he "tried to maintain a firewall" between politics and fund-raising; the other, his insistence that he did "not track, or want to know, who contributes to him or how much they are contributing." The jury only found guilt on the second, "not track," statement.

Blagojevich could face up to five years in prison and a $250,000 fine for that conviction, but he is unlikely to be sentenced before a retrial.

The verdict came in a trial that drew nationwide attention largely because of the outrageous, expletive-laced recordings played in court as well as Blagojevich's constant media blitz that culminated with a spring appearance on "Celebrity Apprentice."

Beyond the Senate charges, the government's case gave an unprecedented look into the lives of Blagojevich and his wife. They spent lavishly on clothing, racking up $400,000 in bills, including $20,000 on suits for the ex-governor.

Testimony from members of his inner circle, including former chiefs of staff John Harris and Lon Monk, laid bare Blagojevich's inability to govern, including hiding in an office bathroom to avoid his budget director and a discussion about the state's grim financial plight.

But perhaps the case's most revealing moments came during the release of his profanity-laced tirades recorded on government listening devices. One revealing discussion caught on tape involved his now-infamous line about trying to leverage something out of his U.S. Senate appointment: "I've got this thing and it's f---ing golden and I'm not giving it up for f---ing nothing."

In all, jurors had to decide evidence in 24 counts against Rod Blagojevich, 53, and four against his brother, Robert, 55.

The cornerstone of the government's case involved allegations Blagojevich schemed to enrich himself and wife, Patti, through selecting a successor for President Obama's vacant U.S. Senate seat.

But jurors showed early signs they were deeply split on the government's case on the Senate seat and the other major allegations facing Blagojevich. Over 14 days, the jury sent six notes to Judge James Zagel.

Despite now being a felon, Blagojevich slipped into the strange role of rock star. Leaving the federal courthouse, Blagojevich was mobbed by supporters, offering cheers, chants of "Rod is Free" and high-fives with the beaming ex-governor, who had to be tugged along to a waiting vehicle by his wife.