

The Pratt ruling on Abscam: a travesty

by Mary Jane Freeman

Federal Judge George C. Pratt, of the Eastern District Court of New York, ruled July 24 to uphold the racketeering convictions of four former U.S. congressmen and three other defendants victimized by the Carter Justice Department-FBI Abscam sting operation.

Pratt's ruling is a rubber stamp, as critics of Abscam have stated, for a McCarthy-style witch-hunt against the traditional and labor-based political machines. Each of the four former lawmakers indicted is a Democrat from the New York-New Jersey-Philadelphia region, strongly supported by organized labor.

Defendants, as well as one former U.S. attorney, Robert Del Tufo of New Jersey, and his two assistants, Edward Plaza and Robert Weir, have charged that Abscam was a political targeting operation as well as an unconstitutional overreach of government power. Despite these charges of misconduct, Judge Pratt demonstrated such enthusiasm for the Abscam performance that he equates politicians with drug pushers: "The cynicism and hypocrisy displayed by corrupt officials, pretending to serve the public good, but in fact furthering their own private gain, probably pose a greater danger to this country than all of the drug traffickers combined."

Pratt's ruling denied that any constitutional rights of the defendants were violated by the FBI; and thus ordered former congressmen John Murphy, Frank Thompson, Michael Myers, and Raymond Lederer, along with the other defendants, to appear before him Aug. 13 for sentencing.

Contrasted to Pratt's dismissal of outrageous FBI conduct and due process violations is Judge John P. Fullam, of the Federal District Court of the Eastern District of Pennsylvania, who has gone on record against Abscam antics. In a well-reasoned decision, Fullam found that the FBI was guilty of major violations of constitutional law. The key distinctions of law to be examined here are the differing views of government-instigated crime and entrapment as a matter of law.

Pratt and Fullam differ greatly on whether or not the

presumption of innocence continues to be the benchmark of our constitutional form of law. At issue is the right of the government to create crime.

Judge Fullam's ruling is emphatic:

It is perfectly proper for law enforcement officials to engage in undercover activities, including deception and trickery. . . . Entrapment issues arise only where the government induces or persuades a person to commit a crime, or actually participates in the commission of the crime.

For Pratt, "Entrapment is a difficult, conceptually slippery, and philosophically controversial concept." He, therefore, rules out that the government's actions in these cases was "outrageous."

Pratt refuses to differentiate the conduct of the government officials in the Abscam cases from routine narcotics investigations. Abscam, to him, is merely another investigation of corruption.

Fullam, on the other hand, does not endorse the media-promulgated concept that politics equals corruption. The subjective test for entrapment is based on the predisposition of the defendant.

The standard the Supreme Court decisions have set puts the burden on the government, as is appropriate in an adversary form of law, to prove the defendant's predisposition. The defendant, according to Fullam, had shown no disposition to commit the crime in the cases before him. Pratt concludes that the defendants were predisposed because they didn't walk away.

The apparent psychological key to the differing decisions is Judge Pratt's view of FBI con artist, Mel Weinberg. As a Runyonesque romantic figure, Weinberg apparently relieved the boredom for Pratt of sitting in the federal courts. Judge Pratt cited Weinberg as the authority in ruling that the FBI doctoring videotapes had no bearing on the trial. Pratt states: "There is no evidence that the recordings thereby erased were anything but what Weinberg judged them—unimportant." Pratt further backs the convicted criminal: "But it was precisely because of his unsavory background, his ability to lie convincingly, his understanding of the corrupt mind and his ability to imagine and execute a grand charade on the scale of Abscam that Weinberg was enlisted for the investigation." Pratt concludes his ruminations on Weinberg, "The court finds no constitutional infirmity in the government's use of a person of Weinberg's background." Besides, Weinberg has contributed "to law enforcement" and endured "personal sacrifices."

Judge Fullam had a more reasoned view of Mel Weinberg: "Mr. Weinberg was strongly motivated to produce results for his FBI employers. At the time he was recruited, he faced a substantial prison sentence on charges of mail fraud." The FBI's offer to intercede and pay him to do what he was good at must have "temptations for one who, at other stages of his career, probably represented the archetypical amoral fast-buck artist."