

George Case Ends in Mistrial

Most Jurors Wanted to Acquit Ex-Spy Chief

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A federal judge declared a mistrial yesterday in the Iran-contra case against former CIA spy chief Clair E. George after the jurors said they remained deadlocked on each of the nine counts against him.

Foreman Steven Kirk said later that most of the jurors "from the first vote" had wanted to acquit George of all the charges. Though the jurors deliberated for six days, Kirk said "people were fixed in their opinions" by last Monday, the fourth day.

Kirk, who characterized himself as a liberal Democrat, said he voted not guilty "in most instances" because he felt, as did other jurors, that the government had not proved its case beyond a reasonable doubt. He found trial testimony by the chief prosecution witness, former

CIA official Alan D. Fiers, not convincing about George's culpability. In addition, Kirk said, questions that George had been asked in appearances before congressional committees and a federal grand jury had been too imprecise to hold George criminally liable for the answers he gave.

Special prosecutor Craig A. Gillen promptly announced plans to try the case again, and U.S. District Judge Royce C. Lamberth scheduled a retrial for Oct. 19. Chief defense attorney Richard A. Hibey protested, saying, "There is a legitimate question as to whether this case should be tried again."

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said in a statement.

Two years ago, a three-judge appeals court panel vacated the three convictions of former White House aide Oliver L. North—who ran the Iran-contra operations—because of the immunized testimony he gave to Congress in 1987. Walsh's other major conviction—former White House national security adviser John M. Poindexter on charges of conspiring to cover up the scandal—was reversed by an appeals court panel on the same grounds last fall. Walsh plans to appeal this decision to the Supreme Court.

Walsh has two other prosecutions under way, one against former CIA official, Duane R. "Dewey" Claridge, and the other against former secretary of defense Caspar W. Weinberger.

Lamberth released the jurors from the 5½-week George case yesterday after declaring the mistrial and thanking them for their attempts to reach a unanimous verdict on at least some of the charges.

"I know this has been a difficult time for you," he told them. "I know many of you are just as disappointed and frustrated at the final outcome here as I am, but nevertheless, on behalf of the court and the community, I know you have conscientiously tried to reach a unanimous ver-

dict."

Kirk, 38, a fund-raising and management consultant for charitable organizations, said the trial had served "a public service" by provid-

ing an understanding of the CIA's role in the Iran-contra scandal and he said he saw nothing to be gained by a retrial.

"What's the point?" he said. "I think it would be extraordinarily difficult for 12 people to agree on criminal culpability for Clair George."

Kirk said that if deliberations had continued much longer, he feared some of those favoring acquittal would have abandoned their views on counts that were close and would have started "voting to get out." He said two jurors had repeatedly voted guilty on every count and would never have changed their minds.

With the judge's permission, both prosecutors and defense lawyers

conferred jointly with jurors willing to talk to them before they were formally discharged. Five jurors, including Kirk, took part in the discussion.

Gillen emerged from the courthouse more than an hour later, looking shaken. He and his fellow prosecutors evidently had thought that a majority favored conviction and that only a small minority was holding out for acquittal. He declined to comment, telling reporters only that "we'll be here October 19 and we'll do it again."

George, asked how he felt about the prospect of another trial, told reporters on the courthouse steps: "I don't like it, but that's the way it is." He made no other comment except to laugh heartily when report-

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George, 62, was the highest-ranking CIA official to stand trial over what was the Reagan administration's worst scandal, a series of White House-run operations that involved covert resupply of the contra rebels in Nicaragua and secret arms-for-hostages deals with Iran. George was accused in six counts of lying to several congressional committees and a federal grand jury about the Iran-contra affair and in three counts of obstructing their investigations of the scandal.

For independent counsel Lawrence E. Walsh, whose 5½-year, \$32 million investigation of the scandal is under increasing attack by Republicans in Congress, yesterday's mistrial was the latest in a series of setbacks. "We are, of course, disappointed that the jury was unable to agree on a verdict. We very much appreciate the prompt date for a retrial," Walsh

ers asked his attorney, Hibey, whether his fees and expenses, now over the \$1 million mark, were a bit excessive.

"I'd be happy to justify my fees any time you can get the independent counsel to justify their fees in this case," Hibey replied. In any case, he said that George was deeply in debt already and could not afford another trial.

Kirk gave this account of the jury's deliberations:

The jurors took their first vote last Thursday and, by yesterday, had voted two or three times on each count. The votes ranged from 7 to 5 to 10 to 2, all for acquittal.

The first count, for instance, accused George of lying to the Senate Foreign Relations Committee on

Oct. 10, 1986, in stating that the CIA was "not aware" of the identities of the U.S. citizens involved in the covert resupply network for the contras. The jury initially voted 6 to 4 to acquit George on this count, with two abstaining, and wound up rejecting the charge 10 to 2.

On this count and the others, it came down to a debate over words and whether statements George made were "literally true and technically responsive," Kirk said. The judge had told the jurors such statements should not be considered false.

Kirk agreed it would have been desirable from a public policy perspective for George to have told the committee everything he knew, but

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GEORGE, From A4

"taken into the criminal system, there's a question whether he had a legal obligation to answer other than the direct question asked of him."

Kirk said most jurors believed that the prosecution's chief witness, Fiers, who served under George as head of the CIA's Central American Task Force, was telling the truth. But there were times when Fiers was contradicted not only by George but also by other witnesses.

For instance, the jurors noted a discrepancy between what Fiers and one of his deputies, Louis Dupart, said about who drafted George's testimony for the Oct. 10, 1986, Senate hearing. Kirk said if those two could not agree with the help of documents and interviews with prosecutors, it was unfair to claim that "Clair George actually knew" what happened and was lying about it when called before a fed-

eral grand jury almost five years later.

Perhaps the strongest charge against George was a count charging him with perjury before the Senate intelligence committee on Dec. 3, 1986, when he said he had "never laid eyes" on Richard V. Secord, a key middleman in the Iran-contra affair whom George had met months earlier in the White House Situation Room.

During the trial, George testified that the statement was "a mistake," but attributed it to the chaos engulfing the CIA at that point in the scandal. George said he had no reason to lie about Secord and emphasized that he had told the senators repeatedly to question other CIA officials about details they were seeking.

Kirk said yesterday that he and other jurors accepted the argument that "on Dec. 3, Clair George was not trying to cover up. . . . Too much was given [about Secord]

even in George's testimony" at other points in the hearing.

One of the narrowest votes for the jurors was an early 7 to 5 tally to acquit George of a charge that he lied to the House intelligence committee on Oct. 14, 1986, when asked if he had had "any contact" with Secord. George replied, "I do not know the man."

"We went around the room and tried to understand 'contact' and have everyone explain what it meant to them," Kirk said. He said the jurors were also divided on what it meant to "know" someone.

It was a point George himself tried to make on the witness stand when reminded by Gillen that he had "met" Secord. "There's a big difference," George replied. "I have met you many times, Mr. Gillen. I don't know you."

Staff writers Gabriel Escobar and Michael York and researcher Lucy Shackelford contributed to this report.
