

## Area lawyer cleared of charge

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A judge dismissed the case against local defense lawyer Deborah C. Wyatt on Wednesday, saying it would be a "grave injustice" for her case to go to trial.

Wyatt had been charged with embracery, a rare common-law offense with its roots in English law, after prosecutors said she attempted to improperly influence a grand jury.

Wyatt contacted members of the December 2004 Albemarle County grand jury before they met to consider the case of one of her clients. She offered herself as a witness, hoping to testify that the traffic accident her client was charged in was caused by a seizure.

A grand jury is tasked with determining whether there is enough evidence to warrant a trial, and typically only hears evidence from prosecutors.

At the end of Wednesday's hearing, Circuit Judge William H. Ledbetter Jr. said Wyatt's contact with the jurors was certainly out of the ordinary for a defense lawyer.

"It may be inappropriate. It may be foolish," Ledbetter said. "It may be so far out of bounds that it astounds people."

But it was not illegal and does not constitute embracery, which requires an attempt to corrupt the jurors, the judge decided.

Wyatt's attorneys had made a similar argument during the hearing.

"We concede the acts they allege Ms. Wyatt committed, and we say, 'So what?' That is not a crime," Alexandria-based defense lawyer John Zwerling said during the hearing.

In response, prosecutors said they had more evidence against Wyatt for a jury to consider and said the case merited a trial.

"I believe the facts are going to go much further," said Jerry Negin, an assistant commonwealth's attorney in Prince William County brought in as a special prosecutor on

the case.

During the hearing, he said Wyatt tried to improperly photograph a list of grand jurors' names before obtaining it from a clerk, and said she told one juror to slip her a note if the panel was about to indict her client.

Zwerling responded that the list of grand jurors was a public record to which Wyatt was entitled.

Alan Silber, another of Wyatt's attorneys, argued that the charges against her challenged the very function of the grand jury, which is designed to protect against wrongful prosecutions.

If a defense lawyer can't make grand jurors aware of witnesses who have evidence, the proceeding is nothing but a tool for prosecutors, said Silber, who took the case as a representative of the National Association of Criminal Defense Lawyers.

The judge didn't agree, saying the grand jury's function can be fulfilled just fine if prosecutors are the only ones to give evidence.

But Ledbetter still granted the defense motion to dismiss the charges, saying the only possible reason to bring Wyatt to trial would be so a jury could hear from the jurors she contacted and assess their testimony.

"To put Ms. Wyatt on trial so we can hear the inflections in [the grand jurors'] voices and the nuances would be a grave injustice," Ledbetter said.

Afterward, Wyatt said she was very pleased by the outcome, and said the entire matter could have been avoided if there were a procedure for defense attorneys to offer witnesses to a grand jury.

"It is, as the judge noted, out of the norm," she said of her contact with the grand jurors.

However, Wyatt said she knew of no other way to tell them her client had a medical condition that caused his car accident. She said prosecutors knew but didn't present the fact to the grand jury.

Wyatt said a previous grand jury had also declined to indict him. The client, who suffered from seizures, was later acquitted.

The grand jurors did not call her as a witness after she contacted them in December 2004. Instead, they notified Commonwealth's Attorney Jim Camblos and wrote a letter expressing concern about Wyatt's conduct.

Camblos requested that an outside prosecutor look into the matter and Wyatt was indicted on the embezzlement charges in June 2005. However, the indictments weren't unsealed until Nov. 5, the day before Camblos lost a re-election bid.

After Wyatt was indicted, authorities decided to put the criminal charges on hold while the state bar had a chance to review her actions.

In the spring of this year, bar officials decided to put their proceedings on hold until the criminal proceedings were over, effectively punting the issue back to the prosecutor, Wyatt's attorney previously said. The state bar review is still pending.

At the request of both prosecutors and Wyatt's attorneys, a judge signed an order last month unsealing the indictments. The charges became public last week after the judge's order arrived in Albemarle County Circuit Court.