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Riley to name successor to convicted official Berry

By GUY RHODES
Editor

Macon County Will soon have a new commissioner for District 4 following the conviction of Robert Michael "Mike" Berry who had held that office since 1988.

A 45-year-old resident of Notasulga, Berry was convicted in federal court last week of using his office for personal gain-- a charge that Berry continues to deny.

"I feel like I was railroaded," said Berry Tuesday. "The only reason I feel like I'm where I am today is that I was honest and told the truth."

Berry, a Democrat, was serving his fourth term as a county commissioner and had planned to run for a fifth term in 2004. The official verdict of the jury in the Middle District Court of Alabama was that Berry was guilty of "extortion under color of official right."

Berry was required to vacate his office at the time of his conviction. He faces up to 20 years in jail and a fine of up to \$250,000.

No sentencing date has been set. According to Assistant U.S. Attorney Steve Feaga who prosecuted the case along with Patricia Snyder, the sentencing will proba-



Mike Berry

bly take place in mid-to-late August. Feaga pointed out that the pre-sentencing investigation is a minimum of 72 days.

Berry remains free on a \$10,000 bond and as of this week was still on his job as an assistant engineer with the Alabama

Department of Transportation.

The long-time commissioner said his attorney, Jeff Duffy of Montgomery, is looking at appeal options. An appeal can't take place until after the sentencing. However, a motion for dismissal could be filed prior to the sentencing.

Gov. Bob Riley, a Republican, will appoint the successor for Berry, a Democrat. In modern times, no Republican has held a county commission seat.

Macon County Republican Party Chair Cheryl Cunningham, a former aide to Riley when he was the Third District Congressman, said Tuesday, "I feel comfortable that Gov. Riley, as always with his appointments, will appoint the very best

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four-member commission. Other members are African-American, as is Commission Chairman Jesse Upshaw.

State Rep. Johnny Ford of Tuskegee, who switched from the Democrat to Republican Party after being reelected in 2002, said he hopes Riley will appoint another white person to the vacant seat.

White Republican candidates who have run for the District 4 seat in recent years are Jimmy Cunningham in 1988 and Harry Cox in 1996. Cunningham is the husband of Cheryl Cunningham.

Ford and Cheryl Cunningham said they know of no time frame for Gov. Riley making the appointment. The next regular meeting of the Macon County Commission is Monday, June 9 at 10 a.m. at the Macon County Courthouse. Commission Chairman Upshaw said he is awaiting some guidance on the process to officially replace Berry.

Upshaw said while "shocked and saddened" by Berry's conviction, he is pleased that to his understanding nothing involving the county was involved in the case.

Over the course of Berry's three-day trial, evidence was presented that Berry accepted money, marijuana and cocaine from a widely-known drug dealer in return for police investigative information and Berry's promise to assist the drug dealer in avoiding detection by law enforcement, according to a press release from the United States Attorney's office.

That dealer, who testified in Berry's trial, is Michael Dean Peek of Notasulga. Peek is serving a life term without parole in the Alabama prison system after being convicted of drug charges.

During Berry's trial last week in Montgomery, the government presented evidence that, over a course of several years, Berry accepted over \$41,850 in drug proceeds and marijuana and cocaine from the drug dealer, and that Berry knew that Peek was a drug dealer at the time.

Berry admitted to borrowing money--

it was a personal loan and had nothing to do with county business.

According to a press release from the U.S. Attorney's office, the government's evidence further established that the understanding between Berry and Peek was that, in exchange for cash and drugs, Berry would help the dealer avoid detection by providing police investigative information to which Berry became privy by virtue of his position as a Macon County Public official. On one occasion, Berry tipped off the drug dealer's wife to an impending police search of their premises, court records state.

Feaga declined to comment on whether or not a "deal" was offered Berry for a guilty plea. That deal reportedly would have kept Berry out of jail, but he would still have been removed from office because of being guilty of a felony.

"I don't have any second thoughts about not pleading guilty," Berry said earlier this week. "I would have had to stand before the judge and admit that I was guilty. I did not use my office to do anything illegal and wasn't going to say that I did."

Berry added, "I want to thank the people of Macon County for their support over the years. Tell the people of Macon County I'm not going to give up supporting them. I'll just have to do it in a different way."

Berry said another disappointment is that he was facing similar accusations a couple of years ago and the U.S. Attorney's Office didn't bring charges.

"I cooperated with the FBI," Berry stressed. "They used me until they didn't need me any more, then they indicted me."

Berry is also convinced that the U.S. Attorney's Office offered some concessions to Peek for Peek's testimony.

The investigation of Berry and Peek that focused on activities in the late 1990s resulted in an internal FBI document developed by Special Agent Kelvin King becoming public.

Leon Frazier, who was soundly defeat-

vided a copy of that report to The Tuskegee News. In the report, individuals such as Macon County Deputy Sheriff Tommy Miller, Sheriff Warren, former Fifth Judicial District District Attorney's Office investigator David Berry and former Macon County Deputy Jerry Beasley were mentioned.

Frazier also issued a press release on May 7 2002 titled "Pulling Back the Veil of Organized Crime and Corruption on the Sheriff's Watch."

That press release stated that Warren either knew or should have known that Deputy Tommy Miller and former Deputy Jerry Beasley were allegedly involved in criminal activities. Frazier's release also said that Commissioner Berry was allegedly involved in incidents and crimes, also.

"It's unfortunate that the document (FBI) report became public, but in the due course of presenting a criminal case, the government is required to disclose that type of information to the defense. At that point, the government loses control over that information," said Feaga, who helped prosecute former Gov. Guy Hunt of wrongdoing in office when he was with the state Attorney General's Office.

At this point, Feaga doesn't anticipate further indictments from the investigation of Berry's case.

"This office has a continuing interest in integrity in government," Feaga commented. "But absent new information, this conviction should close this case."

Leura Garrett Canary, U.S. Attorney for the Middle District of Alabama, stated, "Honesty and integrity are vital to public confidence in its leadership. This is a top priority for our office to vigorously pursue the prosecution of public officials who seek to unjustly enrich themselves at the expense of the taxpayers who entrusted them with their office."

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