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Most Effective Lawyers 2011 Criminal finalists: Discounting witnesses key to getting case dropped against executives

Attorneys Scott Srebnick and David O. Markus, representing different clients who were executives at Wackenhut, each discounted key witnesses in getting the state to drop its case against their clients.

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David O. Markus, Markus & Markus and Scott Srebnick, Law Office of Scott A. Srebnick

Two defendants stood out in a criminal racketeering case against eight security company employees accused of overbilling Miami-Dade County for phantom work.

Eduardo Esquivel and Rene Pedrayes were Wackenhut executives accused of overseeing a scheme to bilk the county out of millions of dollars by helping orchestrate it or turning a blind eye.

But the state dropped its case against both Sept. 8. The decision came months after Scott Srebnick and associate Alex Arteaga-Gomez argued Esquivel was improperly charged because he and a key state witness had no interaction. The decision came weeks after a motion filed on behalf of Pedrayes by attorneys David O. Markus and associate A. Margot Moss detailed why another key state witness was anything but credible.

"The state was overly aggressive to implicate somebody in management at the company, and they misfired. By our presentation, we hopefully opened their eyes to the fact that they had no case," Srebnick said.

Srebnick and Arteaga-Gomez put together a presentation for prosecutors April 18. The pair noted Esquivel was far removed from the company's administration of its Metrorail contract and cited statements to investigators by guard-turned-cop Juan Aviles about his lack of dealings with Esquivel. They also showed problems inherent in the order of events presented by another state witness, former guard Roberto Alvarado.

Alvarado claimed Esquivel taught him in 2001 how to "ghost post," logging hours not truly worked, Srebnick said. But Esquivel wasn't involved with the Metrorail contract until three years later, Srebnick told prosecutors. The defense effort cast doubt on prosecution theories.

When Aviles and his sister were shot to death while vacationing in Puerto Rico, Alvarado was left as the only other pivotal state witness. The next major step for the executives came Aug. 24 when his credibility came under fire.

Markus and Moss demanded Alvarado submit to a polygraph test. They said their client, Pedrayes, had done nothing wrong and was being accused by a former cop whose checkered past included a sexual abuse case.

The pair revealed Alvarado was arrested in 2008 in Georgia on charges of abusing his position of power as a patrol officer. He pulled over a 21-year-old woman, directed her to stop in dark spots and forced himself on her before she called police.

"Rene was innocent, and their case was built on the word of a person who could not be trusted. Setting all of that out in one place for all to see ... really exposed in public how weak their case was," Markus said.

The defense teams' two-pronged attack worked, and both executives are now out of the case, which continues against other employees.