

WashingtonPost.com
Former GOP Lawmaker Gets 8 Years

Cunningham Also Must Pay Back Millions for Bribery and Tax Offenses

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Saturday, March 4, 2006; A01

SAN DIEGO, March 3 -- Former congressman Randy "Duke" Cunningham, a decorated fighter pilot in Vietnam who admitted taking \$2.4 million in bribes from two defense contractors, was sentenced Friday to eight years and four months in federal prison for selling his office.

U.S. District Judge Larry A. Burns imposed the sentence after prosecutors argued for the maximum 10 years and defense attorneys suggested that six years was enough because Cunningham, 64, is suffering from various physical ailments, as well as depression. The California Republican resigned from Congress after pleading guilty to tax evasion and conspiracy to commit bribery in November.

Appearing much thinner than he did last fall, Cunningham choked up as he addressed the judge. "No man has ever been more sorry," he said. "I made a very wrong turn. I rationalized decisions I knew were wrong. I did that, sir."

Burns said the amount of money Cunningham took "emasculates" previous bribery crimes. Noting that he, too, raised a family on a government salary, the judge said he understood wanting "the good things in life." But Burns added: "You weren't wet. You weren't cold. You weren't hungry, and yet you did these things."

In a related development, the CIA's inspector general is looking into whether Kyle "Dusty" Foggo, the agency's executive director and its third-ranking official, arranged for any contracts to be given to companies associated with Brent Wilkes, one of the contractors identified as having made payments to Cunningham. Foggo, a senior intelligence officer handling complex clandestine contracts, is an old friend of Wilkes from their high school and college days. The investigation was first reported by Newsweek.

"It is standard practice . . . to look into assertions that mention agency officers. That should in no way be seen as lending credibility to any allegation," the CIA said in a statement. "Mr. Foggo has overseen many contracts in his decades of public service. He reaffirms that they were properly awarded and administered."

In the San Diego courtroom, Cunningham wiped away tears when his attorney, K. Lee Blalack II of Washington, referred to the former congressman's wartime service, which included shooting down five enemy planes over Vietnam and being shot down himself. "There are men in this courtroom who are walking around and breathing because Duke Cunningham put his life at risk," Blalack said.

Blalack said Cunningham already had suffered greatly. "This man has been humiliated beyond belief by his own hand. He is estranged from those he loves most and cares most about," Blalack said. "All his worldly possessions are gone. He will carry a crushing tax debt until the day he dies. He will go to jail until he's 70 years old."

But prosecutor Jason A. Forge said Cunningham should not get a break, pointing out that he spent months denying the allegations after they appeared last June.

"As these crimes are unprecedented, so, too, should be his punishment," prosecutor Philip Halpern told the judge. He said that Cunningham "was squandering precious tax dollars for, among other things, systems the military didn't ask for, didn't need and frequently didn't use."

The judge recommended the prison term be served in a federal facility near Bakersfield, Calif. In addition, Burns ordered that Cunningham pay \$1.8 million in back taxes and penalties plus \$1.85 million in restitution based on the bribes he received.

Cunningham's greed was unparalleled, according to prosecutors, who detailed in two pre-sentencing memos what they would have presented at trial.

One included a detailed list -- with pictures -- of the house, boat, cars, antiques, rugs and other bribes he took over the past five years. It contained a copy of a "bribe menu" on Cunningham's personal note card that signified he would trade \$1 million of federal funding for \$50,000, and then offer a discount of \$25,000 per million once he had collected \$200,000.

In return, Cunningham admitting using his seats on the appropriations and intelligence committees to earmark funding for programs intended for the companies of Mitchell J. Wade and Wilkes. He then "bullied and hectorred" Pentagon officials to ensure their firms, MZM Inc. and ADCS Inc., were awarded federal contracts, the government said.

Wade pleaded guilty Feb. 24 in Washington to four criminal charges related to the case. Wilkes has not been charged, though prosecutors said the investigation is continuing.

Thomas E. Mann, an expert on Congress at the Brookings Institution, said Friday that "we haven't seen anything like" the magnitude and duration of Cunningham's corruption since the Teapot Dome scandal of the 1920s.

Cunningham was elected to Congress in 1990, a few years after retiring from the Navy, in which he had been an instructor at the "top gun" school for fighter pilots and the first ace in the Vietnam War. When the GOP took over the House in 1995, he used his committee seats to earmark funds for Wade and Wilkes. Wilkes's company collected at least \$80 million in federal contracts, and Wade's was awarded more than \$150 million in the past three years.

Cunningham's downfall began last June when the San Diego Union-Tribune reported that Wade had bought the lawmaker's home near San Diego for \$1.675 million and sold it months later at a \$700,000 loss. Cunningham used the profits -- after Wade sent him a \$115,100 check to pay the capital gains tax -- to buy a \$2.55 million mansion in nearby Rancho Santa Fe. That was followed by a disclosure that Cunningham was living rent-free while in Washington on Wade's yacht, the Duke-Stir.

At first, prosecutors said, Cunningham attempted to cover up his crimes by writing a phony undated letter to Wade offering to pay his loss on the home sale to "eliminate any negative perception." To explain away rugs and antiques Wade had bought for him, Cunningham said that his check to the rug dealer had been lost in the mail, and that he "reminded" the antiques dealer he had given Wade cash for the purchases, prosecutors wrote. The dealer recalled no such transaction. The rugs and antiques will be auctioned off this month to help pay what Cunningham owes the government.

Despite the conviction, Cunningham will get a congressional pension. Peter Sepp, spokesman for the National Taxpayers Union, estimated that

Cunningham's 15 years in the House will make him eligible for about \$36,000 a year. With his 21 years of Navy duty added to that total, his annual pension would be about \$64,400, Sepp said.

Babcock reported from Washington. Staff writer Walter Pincus and researcher Madonna Lebling in Washington contributed to this report.
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