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Star witness' story in Philadelphia sex abuse trials doesn't add up

Ralph Cipriano | Apr. 29, 2013
Analysis Philadelphia

On Jan. 17, a former priest named Edward V. Avery was sworn in as a witness in a Philadelphia courtroom. The man once known as the "smiling padre" was dressed in an ill-fitting baby-blue prison uniform and was missing his usual toupee.

What Avery had to say would stun courtroom observers and enrage a prosecutor.

Avery had been in jail nearly a year since March 22, 2012, when he pleaded guilty to involuntary deviate sexual intercourse with a child and to conspiring with Msgr. William J. Lynn, the Philadelphia archdiocese's former secretary for clergy, to endanger the welfare of a child. The victim of both crimes was a former 10-year-old altar boy identified in a 2011 Philadelphia grand jury report as "Billy Doe."

The prosecutor who called Avery as a witness asked a simple question that nobody had bothered to ask the year before, when the former priest pleaded guilty: Did you do it?

In a calm voice, Avery said he had never touched Billy Doe.

Avery explained that at the time of his plea, he was 69 years old and, if convicted, he faced a prison sentence of more than 20 years. On the eve of trial last year, the prosecution had offered Avery a sweetheart deal: only two-and-a-half to five years in jail. Avery said he pleaded guilty to a couple of crimes he didn't commit for only one reason: "I did not want to die in prison."

Assistant District Attorney Mark Cipolletti was incredulous.

"You're sitting in state prison today because of [Billy Doe's] allegations," Cipolletti said.

"I chose to take the plea," Avery said.

It was Avery's guilty plea that led to the June 22, 2012, conviction of Lynn for endangering the welfare of a child, namely Billy Doe.

It was the first time in the nation that a member of the Catholic hierarchy had been convicted and sent to jail, not for touching a child, but for transferring a known abuser priest from one parish to another, while failing to adequately supervise him.

But if you believe Avery, Lynn is sitting in jail for a crime that never happened. And he's not the only one.

'Historic' prosecution

On the day Lynn was convicted, Philadelphia District Attorney Seth Williams told reporters his "historic" prosecution of the Philadelphia archdiocese had just resulted in a "monumental verdict" in the war on child

abuse. He made the claim even though a jury had convicted Lynn on only one of five original counts, and had rejected the prosecution's main charge, that Lynn had conspired with Avery to abuse children in the archdiocese.

At the second archdiocese sex abuse trial, on Jan. 30, a priest and a former Catholic school teacher were convicted by a jury on nine of 10 counts for raping Doe -- the same altar boy Avery had pleaded guilty to raping.

It was a verdict that surprised the district attorney and stunned every reporter I spoke with who covered the trial. Civil lawyers who filed sex abuse lawsuits against the archdiocese had predicted, at best, a hung jury, or that both defendants would be acquitted. Even former abuse victims who wore their yellow ribbons in solidarity with Doe were betting the two defendants would beat the rap. That's how much reasonable doubt was in the case.

It was a bizarre finale to what had been a disturbing spectacle. After sitting in on all 16 weeks of the two archdiocese trials, I came away with a different take than the district attorney on his "historic" prosecution of the church.

What I witnessed was a couple of show trials shrouded in official secrecy and staged for political benefit. While Lynn became the main focus of the prosecution, the men at the top of the church hierarchy who gave Lynn his orders were given a pass.

They include Cardinal Anthony J. Bevilacqua, who died Jan. 31, 2012. The retired cardinal was deposed during the investigation but not prosecuted.

Also getting a pass were two former auxiliary bishops of Philadelphia: Edward P. Cullen, now retired bishop of Allentown, Pa., and Joseph R. Cistone, now bishop of Saginaw, Mich. The two bishops were never questioned about what they knew about the shredding of incriminating documents ordered by Bevilacqua in 1994, including a memo and a list that Lynn compiled of 35 abuser priests then in active ministry.

According to Lynn's trial testimony, Cullen sat in on a high-level meeting with the cardinal, to which Lynn was summoned and told to turn over all copies of the documents before being dismissed. After the meeting, the cardinal ordered the shredding of the documents, according to formerly secret memos introduced as evidence during the first archdiocese trial. Cistone, in a handwritten memo, wrote that he witnessed the shredding.

While the top members of the hierarchy escaped prosecution, three clerics and a schoolteacher were sent to jail: at the first trial, Lynn and Avery; at the second trial, where Avery made his stunning declaration, Fr. Charles Engelhardt and former teacher Bernard Shero.

Avery is serving two-and-a-half to five years; Lynn, three to six years.

On June 12, Engelhardt and Shero are scheduled to be sentenced. Engelhardt faces a maximum of 37 years in jail; Shero, 57.

All four are in prison because of the testimony of one witness, Billy Doe. In my opinion, Doe was the least credible prosecution witness at both trial, and the one who told the most incredible story: a story that even some in the district attorney's office didn't believe; a story that changed every time he told it.

Critic of the archdiocese

I'm the last person to defend the Philadelphia archdiocese. I've been a critic since 1992, when I became the religion reporter at *The Philadelphia Inquirer*. In 1998, I wrote a long story for *NCR* that the *Inquirer* wouldn't print, exposing Bevilacqua for secret lavish spending at a time when he was closing churches and parish schools in poor neighborhoods, supposedly because of a lack of money.

In 2005, I covered a Philadelphia grand jury report for *NCR* that cracked open the archdiocese's secret archive files, formerly kept in a locked safe. It was like opening Pandora's box. The 45,000 pages of secret documents pried loose with search warrants amounted to a dark river of human tragedy.

The grand jury convened by then District Attorney Lynne Abraham waded through those documents and concluded that two former archbishops had orchestrated a systematic cover-up spanning four decades that managed to successfully shield from prosecution 63 priests who had sexually abused hundreds of children.

The grand jury said the two archbishops -- the retired Bevilacqua and the late Cardinal John Krol -- had "excused and enabled the abuse" by "burying the reports they did receive and covering up the conduct ... to outlast any statutes of limitation."

The grand jury was blunt about the nature of the abuse. "We mean rape," the grand jury report said. "Boys who were raped orally, boys who were raped anally, girls who were raped vaginally."

The report slammed Bevilacqua and his top aides, including Lynn, for "purposeful decisions, carefully implemented policies, and calculated indifference."

The grand jury said because of the statute of limitations in Pennsylvania, it was a "travesty of justice" that all the guilty parties, including Bevilacqua and Lynn, would escape criminal prosecution.

That travesty of justice, however, created an opportunity for the next politically ambitious district attorney. Williams, the current district attorney, was described by *Philadelphia* magazine in an October 2012 profile as "a very powerful guy" who's "an oft-mentioned mayoral contender."

A reversal of fortune

The 2005 grand jury under Abraham specifically looked at whether it could charge Lynn and Bevilacqua under a state law for endangering the welfare of children.

The answer was a definite no.

"As defined under the law ... the offense of endangering welfare of children is too narrow to support a successful prosecution of the decision-makers who were running the Archdiocese," the 2005 grand jury report said. "The statute confines its coverage to parents, guardians, or other persons 'supervising the welfare of a child.' High-level Archdiocesan officials, however, were far removed from any direct contact with children."

In 2011, however, a new district attorney, Williams, and a new grand jury looked at the same state law and came to the opposite conclusion -- that Lynn could be prosecuted for endangering the welfare of children.

In all the secrecy that's shrouded this case, with years of secret grand jury proceedings followed by years of gag orders, the public was never given any explanation for this flip-flop.

With Lynn targeted with a bull's-eye, the hunt was on to find complainants whose accusations fell within the statute of limitations so the district attorney could charge Lynn with endangering the welfare of a child.

One of the few complainants in the pipeline was a drug-addicted criminal dubbed Billy Doe.

The Avery plea

Based on Doe's allegations, the district attorney indicted Lynn for endangering the welfare of a child because he had placed Avery, a known offender, back in active ministry. Avery, Lynn's co-defendant, was charged with raping Doe.

On the eve of trial, prosecutors offered Avery a sweetheart deal if he would plead guilty to conspiring with Lynn to rape Doe.

Avery's lawyer was Michael E. Wallace, formerly Frank Rizzo's two-fisted deputy mayor, and a Philadelphia Common Pleas Court judge. For more than 25 years, Wallace has been a criminal defense lawyer specializing in homicide cases. A 1992 *Philadelphia Inquirer* story described him as the lawyer who gets "the most homicide appointments" from city judges as a court-appointed defense counsel. He's a courtroom warrior who's seen and heard it all.

Avery had a history of sexually abusing young boys. So when he told Wallace he didn't touch Doe, Wallace was skeptical.

It's a real credibility contest here: on one side, Doe, the drug-addicted criminal; on the other, Avery, a priest who moonlighted as a disc jockey and had a history of molesting young boys.

Here's the difference: Avery, as despicable as he is, was thoroughly vetted, and he told the same story since day one at risk of his own self-interests.

Doe has never been vetted. He has everything to gain legally and financially by telling his varying versions of his story.

The vetting of Avery began with Wallace in November 2010. Most Sunday mornings for the next 65 weeks, Wallace would serve Avery a cup of tea and grill him about the details of the alleged crime. Through it all, Wallace said, he was trying "to trip him up."

Avery had an established pattern as an offender. He had a problem with alcohol. He was a groomer and fondler of young boys, but he wasn't a rapist, and he wasn't violent.

Wallace's grilling of Avery went on for more than a year. Avery maintained his innocence. He claimed he never even met Doe.

"After 65 Sundays of cross-examination, I believed him," Wallace said. But that didn't mean Wallace was finished checking out his client's story.

Wallace's next move was to send Avery out "to be boxed," meaning a polygraph test. The man who administered the test was William L. Fleisher, a former FBI agent who did polygraphs for District Attorney Williams. Avery told Fleisher the same story he told Wallace: He didn't do it.

On Jan. 4, 2012, Fleisher wrote Wallace: "It is my professional opinion based on the reactions to the formulated questions in this examination, that Mr. Avery was being truthful when he denied having engaged in" sex with Doe.

Polygraphs aren't admissible in Pennsylvania criminal courts, but they are used as an investigative tool. The

Avery polygraph results brought Wallace to a firm conclusion about the allegations made by Doe: "It all added up to a big lie."

"I don't believe a word he said," Wallace said of Doe. "He obviously wasn't telling a consistent, logical story. It just wasn't there."

The victim

Billy Doe is a 24-year-old former daily marijuana smoker, magic mushroom eater, LSD tripper and heroin addict who was kicked out of two high schools, has been arrested a half-dozen times as an adult for drugs and retail theft, and has been in and out of 23 different drug rehabs.

Since he became the district attorney's star witness, the slender man with the wispy goatee has been arrested twice for drugs, including one bust for possession with intent to distribute 56 bags of heroin.

Doe claimed that when he was a 10-year-old fifth-grader at St. Jerome Church in Northeast Philadelphia, two different priests raped him. Both rapes allegedly took place inside the church after Mass during the 1998-99 school year.

According to the 2011 grand jury report, both priests used the mysterious code word of "sessions" to refer to sex with the 10-year-old altar boy.

Doe claimed that a year later, when he was an 11-year-old sixth-grader, he was raped again at St. Jerome, this time by his homeroom teacher.

There was no physical evidence or any corroborating witnesses in the case. All the prosecution had was Doe and his allegations.

To further complicate matters, Doe gave authorities wildly differing accounts of the rapes:

- Doe told an archdiocese social worker that Engelhardt attacked him after a 6:30 a.m. Mass. The priest allegedly locked four doors in the sacristy, took off all his clothes and forced the boy to have oral sex. Then, Doe claimed, the priest flipped him over and pounded away with five hours of brutal anal sex. The priest threatened to kill Doe if he told anybody. But when Doe told his story to the police and the grand jury, the death threat and the five hours of brutal anal sex disappeared from the story. In the retelling, it was Doe who threatened to kill Engelhardt if he ever came near him again.
- Doe told an archdiocese social worker that Avery had "punched him in the head," and when he woke up, Doe was naked and tied up with altar sashes. Then, Avery anally raped Doe so brutally that he "bled for a week," Doe told the social worker. But when Doe told his story to the police and the grand jury, the punch in the head, the altar sashes and the bloody anal sex all disappeared from the story.
- Doe told an archdiocese social worker that Shero, his sixth-grade homeroom teacher, had punched him in the face and wrapped a seat belt around his neck before raping him in the back seat of a car. But when Doe talked to the police and grand jury, the punch in the face and the seat belt wrapped around his neck disappeared from the story.
- Doe gave three different locations for the rape involving Shero -- in the classroom, in the back seat of a car parked in a parking lot, and in the back seat of a car parked in broad daylight on a well-known lover's lane.

One defense lawyer, Michael J. McGovern, described Doe as "a walking, talking personification of reasonable doubt."

McGovern, who represented Engelhardt at the second archdiocese trial, is a former prosecutor.

From 1980 to 1993, McGovern was assistant chief of homicide and chief of major trials under former Philadelphia District Attorneys Ed Rendell and Abraham. On the eve of the second archdiocese trial, McGovern got a call from an old friend, whom he declined to publicly identify, who is a high-ranking official in the district attorney's office.

The official wanted to know why McGovern wouldn't discuss a plea bargain. I've got a problem, McGovern told the high-ranking official in the district attorney's office. My guy's innocent. And your guy's a "lying sack of shit."

The official's response: "He shared with me that there were people in the DA's office who agreed with me," McGovern said. They were wondering whether they should go through with prosecuting the case.

McGovern's comments were relayed to Tasha Jamerson, a spokeswoman for Williams, who had this to say in response:

> "The victim [Doe] was cross-examined by two defense attorneys, and ultimately a jury properly found Fr. Engelhardt guilty of indecent assault and endangering the welfare of a child on Jan. 30, 2013. This office has full confidence in the credibility of the victim and the integrity of this conviction."

The DA's office refused to answer any other questions posed by *NCR* regarding this story.

A biased trial

Like McGovern, Wallace was convinced Doe was a liar. Wallace also believed that his client, Avery, didn't rape Doe. So why did Wallace allow his client to plead guilty?

At the 2012 archdiocese sex abuse trial, Avery was facing Judge M. Teresa Sarmina, a former Philadelphia assistant district attorney and a Pennsylvania senior deputy attorney general. It was Sarmina who allowed the prosecution to enter into evidence 21 past cases of sex abuse dating all the way back to 1948, three years before Lynn was born, to show a pattern of conduct in the archdiocese.

So Avery was not only on trial with Lynn, but also the Philadelphia archdiocese for all the sins it had committed against children for 64 years.

It didn't look good for the smiling padre.

To make matters worse, Sarmina granted so many rulings in favor of the DA that I wrote at the time that the judge was "often mistaken for a member of the prosecution team."

Sarmina allowed Assistant District Attorney Patrick Blessington, the fiery lead prosecutor in the Lynn case, free rein. Blessington repeatedly called Lynn a liar, a tactic usually viewed as argumentative and, as such, prohibited. But during the cross-examination of Lynn, Blessington called the monsignor a liar 14 times in one hour while he raged at him.

It was like watching Mike Tyson in his prime whaling away on the Pillsbury Doughboy, I wrote at the time. All the while Blessington was pummeling the monsignor, a dozen of Lynn's supporters in the courtroom were watching and praying, clutching rosary beads.

If Avery had gone to trial with Lynn and been convicted, Sarmina "would have killed him" at sentencing,

Wallace said. So that's why on the eve of trial, Wallace advised his client to plead guilty.

Compromised investigation

At the second archdiocese trial, when the jury came back with its stunning guilty verdicts, I decided to take another look at the historic prosecution. For the past two months on bigtrial.net [1], sponsored by the Beasley Firm, I have published the inside story of the DA's investigation as told in formerly secret grand jury transcripts and police records.

The records showed the investigation was compromised from day one.

According to police records, the investigation began Jan. 28, 2010, when Detective Andrew Snyder of the Philadelphia Police Department drove to Graterford Prison to spring Doe out of jail and drive him to the DA's office for questioning.

When Snyder and Doe arrived, Doe's parents were waiting, and so was Assistant District Attorney Mariana Sorensen from the Special Investigations Unit. Snyder recorded what happened next:

"Picked up [Doe] from Graterford Prison. [Doe's] parents ... were present during the interview."

On Jan. 28, 2010, Doe was 21 years old. He was not under 18, so there was no reason for his parents to sit in on the interview. The longstanding practice in the DA's office and the Philadelphia Police Department would have been for detectives to interview an adult complainant by himself, then interview his parents separately.

Did the DA's office bend the rules to let Doe's father, a Philadelphia police sergeant, and his mother sit in on the interview with their son?

In the parlance of defense lawyers, the DA was giving Doe the "red carpet treatment." And the interview with Mom and Dad sitting in was just the start of it.

'Red carpet treatment'

The district attorney helped their new star witness shop for a new drug rehab. And, according to Doe's testimony at the second archdiocese trial, the DA also found Billy a lawyer to file a civil lawsuit against the archdiocese.

That startling admission was made while McGovern was cross-examining Doe:

> Q: How did you get to Mr. [Slade] McLaughlin, your present attorney?
>
> A: His name was given to us.
>
> Q: By another attorney?
>
> A: By the DA's office.
>
> Q: Who in the DA's office gave you the name of a civil lawyer?
>
> A: I don't know. It wasn't given to me.
>
> Q: Who was it given to, your mom?
>
> A: My parents.

Q: Is it one of the prosecutors here?

A: I cannot tell you. It was not handed to me.

The district attorney's office initially declined comment. McLaughlin, in a voice mail to me Wednesday, said "the DA had nothing to do" with him getting the civil case representing Doe, and that the referral came from Doe's criminal lawyer, Brian McLaughlin (no relation), who did not return phone inquiries.

Meanwhile, since he became the DA's star witness, records show, most of the charges from Doe's previous arrests, including the case with the 56 bags of heroin, have disappeared.

Two arrests of Doe for retail theft in 2009 and 2010 were thrown out of court after two witnesses didn't show up. A judge ruled that the 2010 heroin bust, possession with intent to distribute, was the product of an illegal search and seizure because police did not have "reasonable suspicion or probable cause" to stop Doe on the street. The 56 bags of heroin that police discovered in Doe's shorts were tossed as evidence; the charges were dropped and the case dismissed.

Doe's most recent arrest, a simple drug possession case on Nov. 10, 2011, has been continued nine times in the past 18 months, curiously, until both archdiocese trials were over and Doe was done as a witness. On April 11, Doe pleaded no contest and entered into an accelerated misdemeanor program, which, if completed, would result in the arrest being expunged from his record.

A timeline reconstruction of the DA's prosecution showed the district attorney ran with Doe's story without doing anything to corroborate it. First came the indictments, the grand jury report and the arrests, followed by the investigation. It took two years for detectives to visit St. Jerome, the scene of the alleged crime spree, and talk to nuns, priests and Doe's former teachers.

Flawed report

As a result of the rush to judgment, I discovered that the 2011 grand jury report calling for the indictment of Lynn, Avery and others contained more than 20 factual errors, none of which have been corrected.

For example, the grand jury report said Doe's mother witnessed her son undergo a personality change in grade school after the repeated rapes. But that's not what his mother, a registered nurse, told the grand jury. Doe's mother testified she noticed her son's personality change when he turned 14 and got kicked out of high school as a freshman for possession of marijuana and brass knuckles.

Besides factual mistakes, the grand jury report also made some dubious assumptions. The grand jury report, relying on Doe's story, claimed that both Engelhardt and Avery had used the mysterious code word of "sessions" to describe sex with Doe.

On Page 12 of the grand jury report, it says Engelhardt "told Billy that it was time for him to become a man, and that 'sessions' with the priest would soon begin. With that enigmatic statement, Father Engelhardt let Billy go to school."

On Pages 14 and 15 of the grand jury report, it says, "Billy was putting the bells away after bell choir practice when Father Avery pulled him aside to say that he had heard about Father Engelhardt's session with Billy, and that *his* sessions with the boy would soon begin. Billy pretended he did not know what Father Avery was talking about, but his stomach turned."

Both Avery and Engelhardt told their lawyers they had never used the term "sessions" and didn't know what

Doe was talking about. A year after that grand jury report was issued, detectives found a far more likely explanation for the origin of "sessions" when they interviewed Doe's drug counselor.

According to police records, Snyder spoke briefly to drug counselor Mark Besben at the start of his investigation. Here's what the detective wrote in his notes:

> Although he won't say that he does not believe [Doe's] story, [Besben] finds it difficult to believe based on the amount of information that [Doe] told him. Besben stated that it is his experience that most victims of abuse do not open up that quickly.

When detectives finally got around to interviewing Besben 20 months later, the drug counselor told detectives that "sessions" was the term used at the rehab to describe Doe's "group sessions" and "one-on-one sessions." Doe was certainly familiar with drug counseling lingo, having been in and out of 23 drug rehabs.

The grand jury report stated as fact that Doe was a member of the bell choir maintenance crew in fifth grade. According to the grand jury report, Avery pulled Doe aside while the boy was putting away the bells after a concert. But the church's longtime music director and one of Doe's former teachers told detectives that only eighth-grade boys were allowed to be members of the bell choir maintenance crew.

The reason was simple: Members of the bell choir maintenance crew had to set up 30-pound tables and carry bell cases that weighed more than 30 pounds. Only eighth-grade boys were big and strong enough to do the job, the music director and the teacher told detectives.

According to the prosecution, when he was a 10-year-old fifth-grader, Doe weighed only 63 pounds. According to the school yearbook, Doe was a member of the bell choir maintenance crew -- in eighth grade.

After the eighth-grade boys in the maintenance crew set up the bell choir, they left and did not hang around, the music director and the teacher told detectives. The choir would perform usually for an hour, and after they were done, the choir members were responsible for putting away the bells, not the maintenance crew, which was long gone.

The church music director of 23 years, Margaret "Peggy" Long, told Detective Joseph Walsh on Dec. 20, 2011, "I read the grand jury report and the information concerning the bell choir could not have happened."

Or as Wallace will tell you, "If you're going to be a liar, you'd better have a good memory."

Evidence not introduced

When detectives finally got around to investigating Doe's allegations, what did they discover? That just about everything Doe told the district attorney was contradicted by his mother, his older brother, and the nuns, priests and teachers at St. Jerome.

None of the evidence mentioned below was presented to the jury by apparently overconfident defense lawyers at the second archdiocese trial:

- Doe claimed Engelhardt had accosted him after a 6:30 a.m. Mass. But meticulous monthly calendars kept by his mother showed that Doe didn't serve as an altar boy at a single early morning Mass at St. Jerome during the entire 1998-99 school year when he was in fifth grade.
- Doe claimed Avery hit on him after a funeral Mass that the priest said at St. Jerome. But detectives combed through a register of funerals kept at St. Jerome. In contrast to what Doe told police, church records did not list Avery saying any funeral Mass at the church during the entire 1998-99 school year,

when Doe was in fifth grade.
- Doe claimed that when Engelhardt accosted him, he was putting away the leftover Communion wine after Mass. But his older brother, who had served as an altar boy and a sexton at St. Jerome, told detectives it was the sextons and not the altar boys who took care of the wine after Communion. In contrast to what Doe claimed, the older brother told detectives that the four doors of the church sacristy were usually kept open during Mass, including one door propped open with a chair.

The jury never heard any of these arguments. Instead, at summation, with an unstable accuser and so many gaping holes to patch, the prosecution made an emotional pitch. While Assistant District Attorney Cipolletti gave his closing argument, on courtroom monitors, the prosecution displayed a picture of a smiling 10-year-old Doe back in fifth grade, wearing his monogrammed blue short-sleeve polo shirt worn by boys at St. Jerome.

The picture stayed up on all courtroom monitors for the entire 82 minutes of the prosecutor's closing speech. Meanwhile, the prosecutor pointed out to the jury the presence in the courtroom of a sobbing Doe. Then the prosecutor turned the lack of other victims in the case into a positive by saying that nobody else had the courage to come forward.

The conspiracy

At Avery's plea hearing, Blessington read the accusations involving the oral intercourse that Avery had allegedly engaged in with 10-year-old Doe.

Next, Blessington charged that between 1992 and 2003, Avery had conspired with Lynn and other archdiocese employees and officials to "engage in a course of conduct" that endangered the welfare of children.

The goal of the alleged conspiracy, Blessington told the judge, was to ensure that "Avery could remain in ministry without the knowledge of parishioners" so more "children would be exposed to a man that defendant Lynn and others in the archdiocese knew presented a danger to children."

It sounded ludicrous when I first heard it. You'd have to believe Lynn had intentionally acted to keep predator priests in active ministry so they could abuse more kids.

The real conspiracy in the Philadelphia archdiocese was to keep predator priests out of the media and abuse victims out of the civil courts so they wouldn't cash any big checks. But reality wasn't going to be a part of this courtroom drama.

"Are those the facts to which today you are entering your plea of guilty to the two charges we have already discussed?" Sarmina asked Avery.

"They are, Your Honor," Avery said.

The judge read the two charges, and Avery pleaded guilty twice.

"The court finds that the entry of your pleas has been made knowingly, intelligently and voluntarily, and therefore, I will accept them," the judge said before imposing the agreed-upon sentence of two-and-a-half to five years in prison.

Wallace had a smile on his face when asked about the guilty plea and why neither the judge nor the prosecutor asked Avery if he did it.

The only thing the still-grinning defense lawyer would say for the record was, "It was completely in line with the rules of criminal procedure."

Despite Avery's guilty plea, the jury in the Lynn case acquitted the monsignor of conspiring with Avery and/or anyone else to endanger the welfare of a child.

Jury foreman Isa Logan went on FOX 29 shortly after the verdict in the Lynn case to say he didn't believe the prosecution's conspiracy theory, and neither did anyone else on the jury.

"It wasn't about [Lynn] passing [abuser priests] on from parish to parish," Logan explained. "None of us understood or believed that [Lynn] had the understanding that here's a predator priest, I'll help him get to another parish so he can continue to enjoy what he likes to do. None of us believed that."

The recanting

At the second archdiocese sex abuse trial on Jan. 17, when Avery disavowed his guilty plea, the prisoner placed himself in jeopardy, as both the prosecutor and defense lawyers noted in court.

At the time, Avery was a convicted child molester in protective custody. His status could change suddenly, the prosecutor warned. Avery could become a highly publicized convicted child molester mixed in with the general prison population.

"Life is going to get even worse when the press is covering it, yes?" Cipolletti asked Avery.

The former priest agreed.

Avery, who served 10 months of his sentence, had another 18 months to go before he was eligible for parole. But as defense lawyers noted in court, the state could decide not to grant Avery parole and make him serve his full five-year sentence. The state could also file perjury charges against him.

But none of that seemed to faze the prisoner.

Did the district attorney know that if he called Avery as a witness and asked the smiling padre if he did it, that Avery might become a hostile witness?

"There were no surprises," Wallace said.

So his client got a sweetheart deal, but Wallace was left with a bitter aftertaste.

"There's a certain sense of injustice," Wallace said. "The kid got away with a hustle. A junkie hustle."

[Ralph Cipriano, former reporter for *The Philadelphia Inquirer* and the *Los Angeles Times*, is an author and currently writes a blog for **bigtrial.net**.]

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