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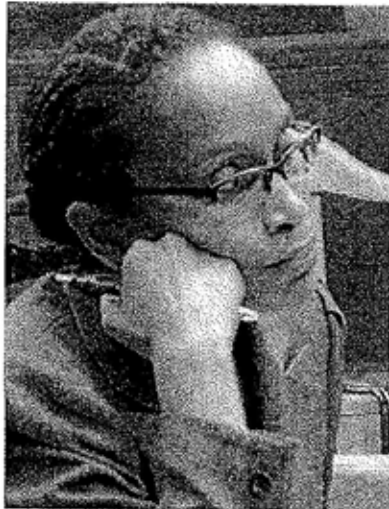
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LONG-TIME OAKLAND SUPERMARKET CASHIER EXONERATED WHEN PROSECUTOR QUITS TRIAL


CVP EXCLUSIVE: The trial of a longtime ShopRite cashier charged with bilking the Oakland store by over-processing coupons and refunds came to an abrupt end when a judge in Hackensack denied an assistant Bergen County prosecutor's attempt to introduce nearly 6,000 new pages of evidence .



Assistant Bergen County Prosecutor Yomara Castro (STORY/PHOTOS: CLIFFVIEW PILOT Courthouse Reporter Mary K. Miraglia)

The outcome exonerated 51-year-old [redacted] Post Road store 13 years.

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Double jeopardy laws prevent her from being retried on the same charges.

The case came to trial after Assistant Bergen County Prosecutor Yomara Castro blocked an application by ██████ for Pre-Trial Intervention and refused an offer from her defense attorney of a guilty plea in exchange for probation.

Asked what she'll do now, ██████ told CLIFFVIEW PILOT she was "going home to take care of my kids."

Her husband smiled in agreement.

"This is a prosecution that should never have taken place," said ██████ attorney, Michael Beatrice.

Superior Court Judge James J. Guida ruled yesterday that Castro should have given Beatrice the stack of refund sheets (**inset, above**) weeks ago — if not months — during what's known as the "discovery phase" of a case.

"Having had numerous conferences where evidence was discussed, this evidence was not provided until the last minute," Guida said.

He then dismissed the indictment against ██████ and told the jurors they could go.

The rules for evidence disclosure are based on *Brady v. United States*, a U.S. Supreme Court case so well-known that failing to provide advance notice of evidence is commonly called a "Brady violation."

Without the evidence, Castro told the judge, she wouldn't be able to proceed.

She asked for time "to explore what our remedies are."

"Denied," Guida replied.

"Judge, I guess we want a mistrial because of your honor's ruling," Castro said.

"I am not declaring a mistrial. I simply ruled the evidence is not admissible," the judge responded. "Call your next witness."

The prosecutor, in turn, said: "Because your honor denied us the ability to explore what our remedies are, we're moving to dismiss the indictment."

"If it's the state's motion to dismiss the indictment, then the indictment is dismissed," Guida said.

He then told the 12 women and two men on the jury: "Because of your presence, we have resolved this case, and your jury service is in fact concluded."

Jurors broke into big smiles, some laughing aloud.

"May we ask what the verdict was?" one asked.

"The case is resolved. It's over. Let's put it that way," the judge replied.

Guida previously had expressed impatience with the pace of Castro's case.

He also excluded two statements that ██████ signed at the demand of store loss-protection employees, ruling that she was coerced. She'd been brought into an office and told she wouldn't be allowed to leave until she signed them, and wasn't allowed to call her husband or her attorney, Guida noted.

Four days of testimony were completed last week without an exact figure of how much authorities were accusing ██████ of taking — nor proof that she'd made any of the transactions.

The transactions were traced to a single cash register in the customer service area of the store, but the code number the store used was for the register, not for each individual employee.

Many people used it during the course of a single day, Beatrice argued.

He also accused store managers of "bootstrapping" the evidence by "identifying the transactions as thefts."

Castro told jurors last week that the evidence would take time to present because she was alleging a "slow and steady, systematic theft" that required "a slow and steady presentation."

The store questioned 31,000 transactions after they were notified by corporate headquarters that there was an unusually large number of coupon redemptions and refunds coming from the Oakland store.

Although an amount of the theft was never brought into evidence, the sum of \$3,000 had been mentioned by Castro during pre-trial motions.

The specific charges in the trial were second-degree accessing of a computer system to obtain "services, property, personal identifying information or money" from Wakefern Food Corporation d/b/a ShopRite; third-degree obtaining property in excess of \$500 by deception; and third-degree under-ringing a cash register to reflect \$500 or more less than the actual value of retail merchandise.

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