

The Recorder
10 UN Plaza 3rd Floor
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Paul Boland, 1942-2007

Second District Justice Paul Boland of the Court of Appeal, a longtime legal educator, is recalled by colleagues as a caring academic.

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Karmic Law

Justice Bedsworth ponders how far China's legal system will reach in the government's eternal opposition to the Dalai Lama. *See Ad Hominem.*

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Kennard appeared to all but offer Corn, a retired Stoel Rives partner, the option of submitting the case over the state's collective bargaining authority without arguing. After fielding a couple of minor questions, Corn did just that.

Corn was arguing on behalf of a consulting and engineering firm that's challenging a collective bargaining agreement between the state and the union that represents the Department of Transportation's engineers. The agreement, ratified by the state Legislature in 2003, provides that the state must make every effort to use state employees, rather than private companies, to perform architectural and engineering services for public works projects.

Corn's client, Consulting Engineers and Land Surveyors of California Inc., objected to the agreement, saying it violated Proposition 35. That 2000 ballot initiative gave the state the authority to contract with private companies, especially if it resulted in cost savings. Before that, article VII of the state constitution had forbidden private companies, in most instances, from contracting with the state for services that could be handled by state employees.

Sacramento County Superior Court Judge Raymond Cadei agreed that the collective bargaining agreement ran afoul of



KENNARD

An informant with a long history

Marin County lawyer can't convince the feds to acknowledge client's past

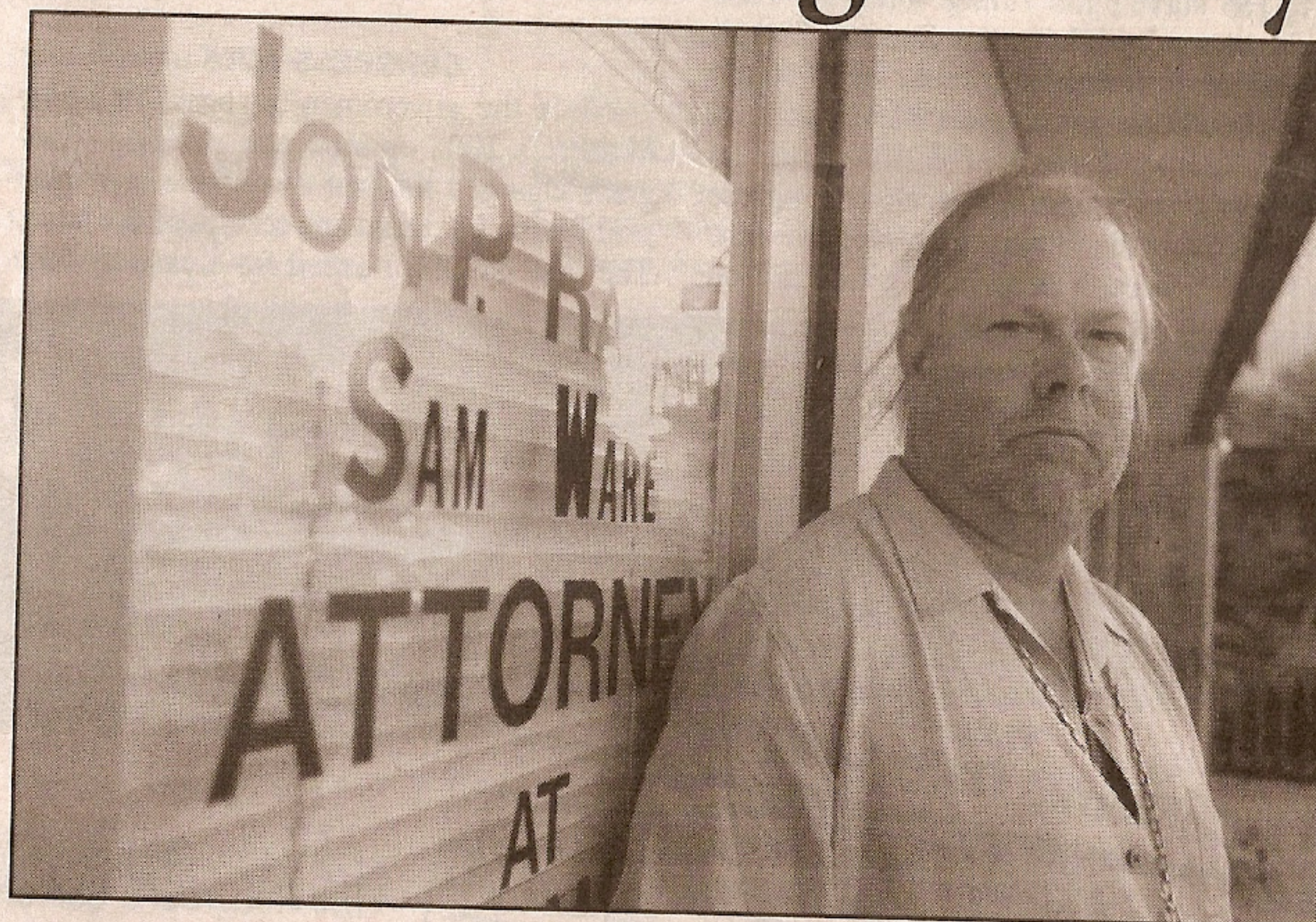
By Millie Lapidario
RECORDER STAFF WRITER

When a Marin County defendant accused of check fraud claimed he was just an FBI informant following orders, nobody could get confirmation from the federal government — not the state prosecutor or the defense attorney, and not the trial judge.

And if any of them thought a magistrate judge could step in and force federal agents to obey, they were wrong.

Defendant Mario Hammonds, who had been incarcerated in various places for much of his life, has reportedly been snitching for the feds since the early 1990s. In one of the more famous cases

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JASON DOY

NO LUCK: Marin County solo Jon Rankin teamed up with a state prosecutor to convince a federal magistrate to force the FBI into disclosing exculpatory evidence about his client. But the magistrate wasn't having it.

Renowned tax man jumps to Sideman

MAGISTRATE

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where he assisted law enforcement, Hammonds offered inside information on the man widely accused of putting the hit on slain rapper the Notorious B.I.G. He is currently represented by Marin County solo Jon Rankin.

Federal authorities asked a magistrate to throw out a state court order compelling an assistant U.S. attorney and an FBI agent to testify about Hammond's activities as an informant. Marin County prosecutor Jack Ryder, however, argued in court filings that federal prosecutors — just like state prosecutors — had a constitutional duty to disclose exculpatory evidence.

Late last month, the feds won their motion. According to the Aug. 22 ruling issued by U.S. Magistrate Judge Joseph Spero of the Northern District of California, the state court didn't have the authority to enforce the subpoenas or the order because the federal government has sovereign immunity and because the U.S. Department of Justice had not given the two federal employees permission to disclose information on Hammonds.

The district court, like the state court, didn't have the authority to enforce them either, Spero wrote, and because of that, the subpoenas were quashed and the order vacated.

Spero didn't address the question of balancing the DOJ's interest in keeping information secret and Hammonds' constitutionally guaranteed due process rights.

"Regardless of the merits of the arguments favoring disclosure," Spero wrote, "the state court had no authority to compel disclosure."

Deputy DA Ryder has referred all press calls to DA Edward Berberian Jr. and Berberian did not return calls earlier this week. But according to Rankin, the federal court ruling had to have been a blow to the DA's office.

"The DA is used to having other law enforcement agencies cooperate with them," Rankin said. "They view themselves as being on the same team as the FBI, the U.S. attorney's office."

Hammonds, currently in a Marin County jail, faces charges for allegedly attempting to use fraudulent checks and a false ID at Nordstrom. His attorney says Hammonds was acting under the instructions of the FBI at the time, but can't get government confirmation. According to Rankin, the notion that the federal government has information that is relevant to the defense is "pretty much admitted by everyone."

A November letter from Assistant U.S. Attorney Letitia Kim, one of the two who had been subpoenaed and ordered to testify, stated that disclosing information on Hammonds implicated many of the DOJ's concerns, such as revealing confidential sources or investigative techniques.

Hammonds spent some time in the late 1990s in a San Luis Obispo prison with Suge Knight, the man some people believe is responsible for the death of the Notorious B.I.G., according to a Rolling Stone magazine report from 2005. Hammonds became an FBI informant in the early 1990s, according to the report. Two years after the Notorious B.I.G.'s 1997 death, the feds passed Hammonds on to the Los Angeles Police Department as a "confidential and reliable" informant to use in the Notorious B.I.G. murder case, according to Rolling Stone.

A few years later, the Marin County defendant offered some damning videotaped testimony against Knight in a deposition that attorneys had planned to use at trial in the wrongful death lawsuit filed against the Los Angeles Police Department in federal court by the mother of the Notorious B.I.G., according to Perry Sanders, a Louisiana-based attorney who represented the slain rapper's mother.

"I think he was important in establishing potential motive and opportunity," Sanders said. The wrongful death suit ended in a mistrial in July 2005.

In addition, Rankin said, he has a letter from a Secret Service agent, explaining that Hammonds had been helpful to him in the past. And according to Sanders, California police officers have submitted sworn affidavits confirming that Hammonds had worked with the FBI.

Sanders only met Hammonds once, but said Hammonds appeared to be "a totally credible and honest witness."

"Whether [the information from the federal government] is conclusive or not, who knows?" Rankin said. "The duty to disclose information is broader than whether it's conclusive or not."

Marin County Superior Court Judge Michael Dufficy has postponed the case for 90 days to allow Deputy DA Ryder to make the same request again through a different administrative process. Without federal testimony, Ryder wrote in court filings, the state case against Hammonds could well be dismissed.

Millie Lapidario's e-mail address is mlapidario@alm.com.