

Alex Bridges Public Safety Writing W17

Jury awards \$12 million to EDA in ITFederal case

By Alex bridges

The Northern Virginia Daily

FRONT ROYAL — A civil jury on Thursday ruled that a businessman who failed to build a facility and create hundreds of jobs as promised owes the Front Royal-Warren County Economic Development Authority almost \$12 million in damages.

The Warren County Circuit Court jury found in favor of the EDA for most of the authority's claims against Truc V. "Curt" Tran and his company, ITFederal LLC. Jurors awarded \$11,919,313 to the EDA. The jury deliberated for five hours before reaching a verdict on the sixth day of the trial.

Cullen D. Seltzer, Karissa T. Kaseorg and L. Lee Byrd, with the Sands Anderson law firm, represented the EDA. Gregory J. Melus, with Tully Rinckey, represented Tran and ITFederal. Judge Bruce D. Albertson presided over the trial. Albertson said he would withhold ruling on the jury's decision to give the defense time to file a motion to set aside the verdict.

The EDA lawsuit — filed in late March 2019 and amended that October — accused the authority's former executive director Jennifer R. McDonald of taking the agency's money without permission to conduct schemes for her own financial gain. The lawsuit named more than a dozen co-defendants who the EDA accused of conspiring with McDonald from 2014-2018. The EDA board forced her to resign in December 2018. McDonald has since been released from the lawsuit through an agreement in which she agrees to pay the EDA \$9 million but does not admit wrongdoing.

The lawsuit names Tran and ITFederal as defendants. Tran and ITFederal promised almost seven years ago to build a cloud-based data center on a 30-acre parcel in the former Avtex Fibers site owned by the EDA, according to information presented to the jury and from witness testimony. The company promised to create 600 jobs at the former Superfund site. Tran portrayed the initiative as a project funded through the U.S. Citizen and Immigration Services EB-5 Immigrant Investor Program.

However, as the EDA pointed out, in the seven years since then-U.S. Rep. Bob Goodlatte announced the economic development project, ITFederal has constructed only an unusable building a third the size originally promised. In failing to meet construction targets listed in documents approved by the EDA in 2015, Tran and ITFederal defaulted on a \$10 million loan for the project, according to the plaintiff. Evidence and testimony revealed that Tran did not need the \$10 million but that Goodlatte pushed the EDA to make the loan as a show of the authority's

interest in attracting economic development. The EDA expected Tran to repay the loan within a few months, although the terms stated it was a 30-year loan, according to evidence at trial.

Although Tran has repaid more than \$1 million of the \$10 million loan, the EDA argued he was still in breach of contract for failing to meet the construction targets.

The jury stopped short of finding that Tran or his company defrauded the EDA or conspired with others to take money from the authority. Jurors also did not find in favor of the EDA on its claim of statutory conspiracy.

In trying to prove its conspiracy claim, the EDA presented an email sent from McDonald to Tran on the eve of her termination, in which she tells him they needed to meet to get their story straight.

Specifically, the jury found in favor of the EDA on its claims against Tran of unjust enrichment; conversion (a civil term similar to theft in criminal law); and ultra vires (a term that means any transaction made without authority is void). The jury awarded the EDA \$1,499,986 in compensatory damages plus interest from March 2019.

In the separate claims against ITFederal, jurors found in favor of the EDA for unjust enrichment, conversion and ultra vires. The jury also found in favor of the EDA for its two claims of breach of contract against ITFederal. Jurors awarded the EDA \$10,419,327.

Also in the lawsuit, the EDA claims that McDonald gave \$1.5 million in authority money to Tran — funds she disguised as a grant from the Virginia Economic Development Authority awarded for the project. However, the plaintiff's evidence showed the VEDP did not award the money to EDA nor had Tran applied for the grant.

Tran's attorney tried to steer the blame to McDonald and the EDA's board of directors at the time, claiming that McDonald made his client a patsy for her schemes. Tran, who testified on his own behalf, also blamed other people and entities including the town of Front Royal for the project not moving forward. Melus argued that the EDA board failed to keep McDonald in check and monitor the authority's finances and that the EDA bears the blame.

Former EDA board members Ron Llewellyn and L. Greg Drescher each testified that they believed McDonald as she represented information to them and their colleagues about Tran and ITFederal.

Tran and ITFederal had filed a counterclaim against the EDA claiming that the authority breached its contract by failing to disclose that the site contained storm-drain pipes and other debris underground not removed during remediation as well as a chemical substance. EDA attorneys argued that the substance was found to be not hazardous and that it took ITFederal's contractor eight days to remove the debris and pipes and fill in the hole.

The EDA board of directors sold a 30-acre vacant lot, valued at \$2 million, on the Avtex site to Tran and ITFederal for \$1, on the condition that Tran develop the property as promised. The agreement required that Tran either pay the EDA for the lot or return the property if he did not develop the property.

Evidence showed that Tran and ITFederal entered into an agreement with the EDA in September 2015 to build a 28,500-square-foot building on the 30-acre lot or spend at least \$5 million of his own money on the project by September 2019. The plaintiff also loaned \$10 million to the defendant with the same conditions, evidence showed.

The EDA had sought \$11,919,313 in compensatory damages from Tran and ITFederal: \$2 million for the breach of contract and fraud related to his failure to develop the site; \$8,419,327 for defaulting on a \$10 million loan from the authority; and \$1,499,986 he received from the EDA disguised as a non-existent state grant.

Authorities: Woodstock firefighter set fire and then responded to scene

By Alex bridges

The Northern Virginia Daily

The firefighter accused of setting a Woodstock building ablaze on Friday rode along with the fire company to put out the fire, authorities say.

Ray Boyd Kerns stands charged with felony arson and destruction of property in the fire that destroyed an abandoned building at 402 W. Locust St.

Kerns, 36, of Toms Brook, appeared in Shenandoah County General District Court Monday morning and was denied bond. He is scheduled to appear in court again on Friday.

Shenandoah County Assistant Fire Marshal Joe Loving spoke by phone on Monday about the ongoing investigation.

Investigators viewed a surveillance video recording that showed Kerns on the Locust Street property 30 minutes before the fire was reported by a passerby just before 10 p.m. Friday, Loving said. More than 20 Woodstock firefighters, accompanied by other local fire and rescue departments, responded to the blaze.

Kerns, a Woodstock Fire Department firefighter, was with the first crew to arrive on the scene, Loving said.

“(Kerns) did respond and, ultimately, he was identified as a suspect and he volunteered to come to Woodstock (Police Department) and we conducted an interview with him and, at that point, he confessed to the fire,” he said.

Kerns gave his statements early Saturday morning and was taken into custody around 6 a.m., Loving said. He added that authorities have not ruled out seeking additional charges against Kerns.

“The next step in the investigation will be to determine if there’s any other parties involved, if he acted alone, if there are other incidents that are unsolved related and, you know, obviously we’re working in conjunction with Woodstock (Police Department) in the ongoing investigation related to that building,” Loving said.

The 1902 multistory wood frame abandoned building was owned by Lena Frances Keegan, who has been missing since August 2021 and remains the subject of a missing person’s investigation. In early June, law enforcement agencies searched the Locust Street property, her home on Lee Street, and her daughter’s Maurertown residence.

Loving said he couldn’t comment on whether or not the fire is connected to the missing person’s case. Loving said only that both are ongoing investigations.

The family used the building for storage, he said.

“I know that officers that had been in the building working the other case said it was pretty packed full of stuff,” Loving said.

Keegan’s relatives have been notified about the fire, Loving said.

Anyone in and around the area at the time of the fire is asked to contact Loving at 540-459-3503.

Edinburg man to serve 30 years for 2019 murder of former Shenandoah supervisor

By Alex bridges

The Northern Virginia Daily

WOODSTOCK — A Shenandoah County man must serve at least 30 years in prison for stabbing to death former Board of Supervisors member Cynthia Dellinger in her driveway in 2019.

Retired Judge William W. Sharp sentenced David Brian Knott, 59, of Edinburg, in Shenandoah County Circuit Court on Tuesday to 40 years in a state penitentiary for committing one count of second-degree murder. Sharp suspended 10 years of the sentence on the condition that Knott complete 15 years of supervised probation upon release from prison.

Shenandoah County Commonwealth’s Attorney Amanda McDonald Wiseley and Public Defender Peter K. McDermott II reached a plea agreement finalized late last week that allowed Knott to avoid a jury trial on his original charge of first-degree murder and a possible life sentence if he had been convicted. Knott had originally pleaded not guilty to the charge.

Knott, who had worked as a farmhand on the Dellinger farm in Edinburg, apologized to the court before the judge imposed punishment.

“I’m so sorry for what had happened,” Knott said. “There’s nothing I can do to change that, and I wish that it didn’t happen.”

Knott’s sentencing comes roughly three years and 10 months after Dellinger died on Jan. 26, 2019, from multiple stab wounds, according to court documents. Dellinger, 63, worked as a real estate professional and had once served as the first woman elected to the Shenandoah County Board of Supervisors.

Members of the victim’s family — including her husband Charles and son Wesley Dellinger, a captain with the Shenandoah County Sheriff’s Office — sat in the courtroom for the hearing. Outside the courthouse, after the hearing, Wesley Dellinger said the family is satisfied with the outcome but frustrated that it took almost four years to reach a conclusion.

“But we are glad it’s over,” Wesley Dellinger said. “It’s closure.”

Wesley Dellinger criticized Wiseley and her office for not communicating with the family while they waited for a conclusion.

“What we as a family have gone through the last three years and 10 months nobody should have to go through and none of the citizens of Shenandoah County should have to go through and, when things like this occur, speculation develops, rumors, and it just makes things even worse for the family, obviously,” Wesley Dellinger said. “We as a family expect people to do their jobs and do what is expected of them and, if they’re put in a position to do the right thing, they should do the right thing.”

The numerous times the case was delayed was not fair to the family or to Knott, Dellinger said.

Wesley Dellinger said he also wanted Knott to plead guilty as a condition of the agreement and not enter an Alford plea, by which a defendant maintains his innocence but acknowledges the prosecution’s evidence could lead a jury to find him guilty beyond a reasonable doubt. Dellinger said he also demanded that as part of the deal the court require Knott to provide in writing what happened during the incident and where he tossed the evidence.

Knott provided the following written statement to the court:

“On the morning of January 26, 2019, I had no intention of harming Cynthia Dellinger. I got up that day with the intent of doing my job and helping out the Dellinger’s wife with their family farm as I did every day. Mrs. Dellinger and her husband Charlie had provided for me for quite some time, and truthfully Charlie is the only friend that I have ever had. Mrs. Dellinger and I had not gotten along well recently. Mrs. Dellinger had been arguing with Charlie Dellinger about

supporting me on some legal matters and had been complaining about me regarding those matters as well as other things.

I had returned from assisting Wesley Dellinger, and I was sharpening chainsaws at the farm. Soon after that Mrs. Dellinger returned from the store. I wasn't able to see whether she brought the groceries into her house or not, but she called me up to speak with her at the front of her house. She told me that she believed that I was 'stalking' a woman that I had recently met with an insurance agency by making that woman uncomfortable and that that had embarrassed Mrs. Dellinger. Mrs. Dellinger was very mad about that and got very close to my face in yelling about this and when I backed away she got angrier at me. I have no idea why what happened next happened. I saw red and in a fit of rage I grabbed my knife off my belt and I stabbed her in the throat. I don't have a clear memory of what I did next until I got my boots and went to Noah's truck and left to get away.

I left to go to the pizza store, looking for someplace to hide, eat and think. I saw Wesley on my way out giving me the sign to slow down. I headed for the Country Store on Senedo Road. I realized that I didn't have any money or a debit card so I stopped and turned around. I stopped on the side of the road and tossed my clothes into the Creek on the side of the road and threw my knife by scaling it sideways across the street into a cornfield. I was wearing nothing but my t-shirt, boots and underpants and drove back to the farm. Once there I saw Nancy Whittington and got dressed into clothes that I had stored in my vehicle."

Wiseley gave a synopsis of the evidence she planned to present had the murder case gone to trial. Cynthia Dellinger woke up on the morning of Jan. 26, 2019, and planned to meet a friend for coffee in Woodstock. Her grandson and another friend came to her house on Dellinger Acres and she made them breakfast, Wiseley said. She called her friend to let her know she was running late, Wiseley said. Dellinger then met her friend in Woodstock for coffee, went on a few errands and returned home, Wiseley said.

"Then, your honor, when she returned, she was the victim of what can only be deemed to be a violent assault," Wiseley said.

The prosecutor went on to outline the events from the time a friend of Dellinger's found her lying unresponsive in the driveway to efforts by her son and responding emergency medical technicians to save her life. Meanwhile, Knott stood by his vehicle parked in the driveway, not coming forward or providing help, Wiseley said. Rescue workers took Dellinger to Shenandoah Memorial Hospital where she was pronounced dead, Wiseley said.

In an interview with investigators, Knott denied being anywhere near the victim when she was stabbed, Wiseley said. Even though Knott had changed clothes, investigators found blood on Knott's knee. A forensic test matched the blood to the victim, Wiseley said. Investigators did not find the knife or Knott's discarded clothes.

Shenandoah County authorities arrested Knott on Jan. 27, 2019, and charged him with second-degree murder. The case originated in Shenandoah County General District Court. Members of Dellinger's family appeared at the several hearings held over the course of a year. In one instance, however, the Dellinger family were not made aware of one of Knott's scheduled court appearances and learned about the appearance in the media. Almost a year to the day after Knott's first court appearance, a judge granted a motion by the commonwealth's attorney to dismiss the charge in general district court.

A circuit court grand jury handed up an indictment on Jan. 15, 2020, almost a year after the incident, charging Knott with one count of first-degree murder. Virginia reported its first cases of COVID-19 about two months later, prompting the Supreme Court of Virginia to order circuit courts across the state to halt jury trials for almost a year.

The Shenandoah County Circuit Court first scheduled Knott's jury trial to start Dec. 6, 2021, then May 23, 2022, then Nov. 28, 2022. The court held a half-dozen hearings over the two years since Knott's indictment.

Sharp noted that Knott initially denied any involvement in the incident, disposed of evidence from the scene and made contradictory statements.

"The autopsy, probably better than anything else, documents what a severe and heinous assault this was," Sharp said. "I didn't have the time to sit here and count up all the wounds ... but there were a lot."

Sharp gave Knott credit for time served while awaiting trial. Knott has been held without bond at Rappahannock-Shenandoah-Warren Regional Jail since his arrest in January 2019.

Also as part of the plea deal, Knott admitted he violated probation imposed as part of his punishment for an earlier unlawful wounding conviction related to an incident in which he hit another Dellinger relative with a vehicle. Knott received a five-year sentence for the charge with four years and six months suspended. Sharp revoked the suspended time, which Knott must now serve.

Knott also stands charged in Warren County General District Court on one felony count of extortion in writing. Authorities accuse Knott of writing a message threatening an employee with the medical staff at the jail on March 27. Knott is scheduled to appear in court on the charge on Dec. 13. Knott received a 30-day sentence, all time suspended, for committing destruction of property in the jail in May 2021.