

Brandon McCarthy Defends 81-Year-Old Doctor in Dismissed Kickback Case

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Litigation Partner and former federal prosecutor Brandon McCarthy spoke with *The Texas Lawbook* about his successful defense of retired Houston physician Dr. David Wolf, an 81-year-old doctor who was indicted in an alleged kickback scheme that was ultimately dismissed.

Brandon, along with Litigation Partner Rachel Riley, met with prosecutors and argued that Wolf was innocent and that the statute of limitations had run out. At the center of the case was Wolf's purchase of $10,000 worth of stock, a one percent share in a company "he did not run and had never been to." He noted that the indictment's star witness, a longtime friend of Wolf, had made 90 percent of the money and had "cut a deal with the government," serving up other unsuspecting doctors "as indictment fodder."

Getting to Know the Client

Brandon traveled to Houston to understand his client's character firsthand. He described walking the streets of Houston with Wolf, visiting homeless medical clinics where the retired doctor continued to treat patients and hand out free tennis shoes. "At the end, I was ready," Brandon said. "No way was I letting DOJ convict this man. In my 26 years in criminal law, I have seen a lot of guilty people. But standing before me was the most innocent man I had ever encountered."

Preparing for Trial

Brandon took the case to the Gerry Spence Trial Academy in Wyoming, where he spent three weeks working the case "12 hours a day, six days a week" with 60 other lawyers, conducting multiple mock juries and attacking the case from every conceivable angle. Despite the long odds of success in a federal case, Brandon and his client were determined to move ahead to trial.

Dismissal

Their group of defense attorneys lobbied US District Judge Karen Gren Scholer for a dismissal. Brandon recalled that the judge "gave us a hearing. She was tough and fair. And she even chastised

the government a bit for their sloppy job on the indictment." The day before Valentine's Day, Brandon received the surprise: the case was dismissed.

He immediately called Wolf, who, "despite facing life in prison for a crime he had no idea he had committed, was at the homeless clinic caring for a patient." Brandon emphasized that there was nothing in the indictment alleging patient harm or unnecessary medical care, and that Wolf's prescribing habits had not changed upon joining the partnership.

"Even when you are faced with all the resources of the federal government, the might of the FBI, the brawn of the US attorney's office and the threat of life in prison pressuring you to 'just plead,' sometimes you simply must stand your ground," Brandon reflected. "Even if you are a frail 81-year-old man."

"'Are You Kidding?': Ex-Prosecutor Defends 81-Year-Old Former Doctor in Tossed Kickback Case," *The Texas Lawbook*, February 23, 2026

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