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'No case ... whatsoever' presented at Charlie White trial, his new attorney says

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Ousted politician Charlie White paid a lot of money for legal representation at his 2012 trial on perjury, theft and voter fraud charges, but "no case was presented whatsoever" on his behalf, leading to his conviction, his new attorney said Tuesday during a hearing on his appeal.

The former Indiana Secretary of State is asking the Indiana Court of Appeals to overturn his conviction. White claimed his attorney during the trial, former Marion County Prosecutor Carl Brizzi, was ineffective and did not present evidence and witnesses on his behalf.

During the hearing, Andrea Ciobanu said her client should have testified at his trial, but said Brizzi did not have "meaningful consultation" with White about whether or not he should testify.

White was convicted in February 2012 of six Class D felony charges, which stemmed from his residency while he served on the Fishers Town Council. Prosecutors said White voted and took pay as a council member in a district in which he no longer resided. White claimed he was living with his ex-wife, which was within the council district.

During the hearing, Court of Appeals judges Nancy Vaidik, Michael Barnes and Melissa May posted tough questions to White's attorney, saying they're not second-guessing the trial court's judge regarding Brizzi's counsel.

Ciobanu said the trial court did not properly apply an Indiana statute that says a person's residency can be established partly by their intent to live in a certain place. White intended to live at his ex-wife's house, but Ciobanu said, her client was not able to present that intention because of ineffective counsel.

The judges, however, recounted evidence presented during his trial — cellphone records, neighbors' testimonies and public documents — that showed White did not live in his marital

home, where his son and ex-wife lived. Prosecutors alleged White was living with his then-fiancee in a townhouse that was outside his council district.

A jury convicted the former Hamilton County Republican Party chairman of three counts of voter fraud, two counts of perjury and one count of theft. The trial court sentenced him to one year of electronic home monitoring but stayed his sentence pending the outcome of his appeal.

Under questioning from the judges, Ciobanu said she thought there were cases of conviction on double jeopardy for White regarding several of the counts. The state's attorney, Justin Robel, said White could be a victim of double jeopardy but Robel said that was not a part of White's appeal.

Robel asked the appellate judges to "reweigh the facts" of the case and uphold White's conviction. He said White knew he was an "unlawful occupant" under voter election laws, as proven in documents such as his application for a new marriage license. Robel also said White continued to take a salary from the Fishers Town Council, which led to his conviction on the theft charge.

When asked by the judges whether White should have forfeited his council salary after moving out of the council district, Robel answered, "yes." In arguing against the theft conviction, Ciobanu said White didn't deprive anyone else of the money and the council never asked for it back.

Judge Barnes, however, asked, "They took the dough, didn't they?" Ciobanu said, "yes."

White was convicted a little more than a year after he was elected secretary of state. He was removed from office after his conviction, which made him ineligible to hold the state post.

White also alleged in his motion for post-conviction relief that he had been singled out and prosecuted for the same thing done by many other elected officials.

His appeal comes after a Hamilton County judge last March denied White's request to overturn his conviction.

White also has a pending civil lawsuit in Marion County against Brizzi, alleging legal malpractice, breach of contract, negligent or reckless infliction of emotional distress, fraud and unjust enrichment. Brizzi has filed a motion to dismiss, but the case has been put on hold pending the outcome of White's appeal in the criminal case.

The judges have not yet ruled on the appeal and have taken the case under advisement.

Star reporter Jill Disis contributed to this story.

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