

## Convicted ex-congressman's homecoming no celebratory affair

by Greg Moran and Marcus Stern

SAN DIEGO - Randy "Duke" Cunningham is back in San Diego, 16 months after being shipped off to federal prison for taking millions in bribes from defense contractors.

It was a homecoming far different from what the disgraced former Republican congressman was accustomed to.

Cunningham arrived Sunday night in the custody of federal prison authorities, wore an orange jumpsuit and was placed in a fifth-floor special segregation unit in the downtown federal jail.

Law enforcement sources said Cunningham was brought to San Diego from a prison in Tucson, where he has been serving his sentence of eight years and four months, for follow-up interviews with federal prosecutors.

The prosecutors are preparing for three trials of Cunningham's alleged co-conspirators: Poway, Calif., defense contractor Brent Wilkes, former CIA official Kyle "Dusty" Foggo, and New York mortgage broker John Michael.

Cunningham is expected to remain in San Diego until prosecutors are certain they no longer need his help to prepare for the trials, according to federal law enforcement sources who requested anonymity because they are not supposed to speak publicly about ongoing investigations.

His presence should not be interpreted to mean he has cooperated enough to earn a reduction in his sentence, the sources said.

In a separate development, Cunningham co-conspirator Thomas Kontogiannis also made an appearance in San Diego Monday. Kontogiannis, a New York developer, pleaded guilty in a secret proceeding in February to laundering \$1.1 million in bribe money for Cunningham.

He was downtown for an interview with federal probation officials and to go through a formal booking procedure at the U.S. Marshals Office. Last month, Judge Larry Burns ordered Kontogiannis to do both, court records show.

Kontogiannis also is cooperating with prosecutors in the upcoming trials. He declined to comment when approached outside the federal courthouse Monday.

At an afternoon hearing in federal court Monday the question of who will represent Wilkes - a central figure in the Cunningham case - remained unresolved.

Earlier this month, Burns removed high-profile lawyer Mark Geragos from defending Wilkes in the trial in which Wilkes and Foggo are defendants. Geragos had refused to undergo a security background check required by the government in order for him to view thousands of pages of classified material.

Geragos also represents Wilkes in Michael's trial, which is scheduled to begin in September. Geragos told Burns that Wilkes wants the same lawyer representing him in both cases, and the lawyer said he wanted to be taken off the Michael case as well.

Burns refused. Geragos doesn't need to go through a background check in the Michael prosecution and should be ready for trial, Burns said.

Burns previously had ordered Wilkes to show up Monday with a new lawyer. Wilkes did not. Instead, Geragos said he wanted to speak with Burns out of the earshot of government lawyers, to explain the reasons why one lawyer should represent Wilkes in both cases.

Burns agreed to do that Wednesday, but he warned Wilkes to make arrangements for a new lawyer for the trial involving Foggo. That trial was set to begin in October, but it will be moved to a later date.

Also at the hearing, Assistant U.S. Attorney Jason Forge complained to Burns that Raymond Granger, the lawyer for Michael, violated a court order when he included an FBI report of a February interview with Cunningham in a court filing.

The report was contained in Granger's submission to the 9th U.S. Circuit Court of Appeals, filed last week, seeking to unseal transcripts of four hearings concerning Kontogiannis' guilty plea.

Burns had ordered the transcripts unsealed in June, but prosecutors are fighting to keep them secret. The San Diego Union-Tribune also is seeking to have the records made public.

Details of Cunningham's interview - in which he describes a more extensive web of corruption than previously known - were published by the newspaper last week.

Forge said Granger violated court rules by not blacking out certain personal information about Kontogiannis, and by sending the document to the media. Granger said that he sent copies of the brief to lawyers for the paper and another news media organization as a professional courtesy, because those organizations had sent him copies of their briefs.

Granger also said he sent prosecutors copies of his filing two days earlier. Burns said that if prosecutors were concerned they had ample time to contact the appeals court and have the information blacked out or sealed. Burns said that in retrospect Granger should have blacked out the personal information, but the judge took no action.

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