

TEXAS LAWYER

Litigator of the Week: Loud Dallas Lawyer Wins Acquittal of Fellow Attorney by Shutting Up

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Tiffany Talamantez and David Finn.

David Finn is the kind of trial lawyer most people want when they're facing 30 years in prison. He's loud, is not above pounding tables, and will do just about anything to have the last word before a jury.

But the aggressive Dallas attorney took a different approach to win a recent acquittal for a fellow lawyer accused of bank fraud—he just shut up.

Finn's client, James B. Wright, is a Mississippi real estate attorney who was **indicted** last year in the Eastern District of Texas on charges of conspiring with two businessmen to make false statements to a Dallas bank in the course of closing numerous real estate transactions.

During a weeklong, document-heavy trial, a federal prosecutor alleged Wright conspired with two businessmen to provide false closing statements to obtain federally backed mortgage loans from PrimeLending.

Specifically, the government claimed Wright, a title attorney, worked with the businessmen to locate buyers for property for a fee and submitted separate closing statements—one to the bank that did not disclose the fee and another to the buyers and sellers that did.

Finn used his full-volume, demonstrative style to argue that Wright didn't defraud anyone and that it's not unusual to have two separate closing statements when the buyers and seller of property are from different states.

"David is kind of loud," Wright said. "The acoustics were horrible in that courtroom, but the jury had no problem hearing David."

But when it came time to give the crucial closing argument in the case, Finn decided to turn his volume down completely by handing that job over to his co-counsel **Tiffany Talamantez**, a young Dallas lawyer with four years of experience.

Finn said he feared his abrasive style as lead attorney didn't go over well with some of the female jurors.

"I figured we'd be able to communicate better if it wasn't high octane Finn all the time. People respond better to different voices," Finn said. "I was self-aware enough to know I may have rubbed some of the jurors the wrong way. And I thought at that particular point in time it might have paid dividends."

"I was thinking now some of the female jurors will think maybe he's not such an ass," Finn explained. "Giving up the microphone and the last word—that that guy would give up the chance to make the closing argument—I think the prosecution was shocked."

Talamantez, who cross-examined two witnesses in the trial, was also shocked Finn gave her the chance to make her first-ever closing argument before a federal jury.

"I was passionate," Talamantez said of her closing argument. "But I think what made me able to get up there, and the nerve to do it was I really believed in what we were saying. I had a genuineness that came through, but I wasn't raising my voice or pounding my fist or pointing at anybody. I truly believed that he was not guilty."

The tactic worked because the jury indeed found Wright not guilty on Dec. 22. His co-defendant, Brett Immel of Chicago, was also found not guilty. Another co-defendant, Daniel C. Bomar, pleaded guilty last year and awaits sentencing.

The jury's verdict was remarkable because it was the first full acquittal before U.S. District Judge Amos Mazzant of the Eastern District of Texas in his three years on the bench.

Chris Eason, an Eastern District assistant U.S. attorney who prosecuted the case, did not return a call for comment.

Wright was so pleased with Finn's representation that he wrote a commendation letter to the Dallas Bar Association praising his lawyer's performance.

"Having someone that believes in you and who leaves no stone unturned in your defense is awe-inspiring to watch. You all can be very proud that David Finn is a member of your association and he is someone that I will be grateful to for the rest of my life," Wright wrote in the letter.

"I've been a lawyer from 27 years. I have been around," Wright said of the trial. "But I have never seen someone in the courtroom doing the things he did. It was like watching a TV show. If I wasn't involved in it, I'd have probably enjoyed it more."

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