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# Grumet: Ken Paxton should face the same legal system as the rest of us



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Every legal expert I spoke with agreed: I would never be able to hold out for this long, certainly not for seven years.

“Had you or I been indicted for securities fraud, they would have had the case resolved in eight to 12 months,” Charlie Baird, a former district and appellate court judge, told me.

Indeed, 83% of state-level felony cases are resolved within a year. A couple of other attorneys said it might take two years, tops.

“But here we are at *seven years*,” Baird sighed.

Well, not exactly “we.” Texas Attorney General Ken Paxton. His felony indictments for securities fraud — for persuading others to invest in a tech firm without disclosing he’d financially benefit — recently hit the seven-year mark with no trial date in sight. The staggering delays send a noxious message: The laws don’t really apply to our state’s top law enforcement officer.

Paxton can go for seven years without facing a trial. You or I couldn’t.

True, Paxton’s case has had more twists and turns than a Hill Country highway — four different presiding judges, trips up and down the appellate ladder, courtroom clashes over the special prosecutors’ pay and whether to hold the trial in Paxton’s home turf of Collin County or Democratic-friendly Harris County.

The long-running nature of the case has helped it fade to the background, allowing Paxton to go about his life as if he’s free and clear. But this situation should be untenable for Texans, especially for the voters who must decide in November whether to give Paxton, a Republican, another term leading an agency that has the power to try to put people in jail.

Maybe Paxton is innocent of these charges, as he has asserted. Or maybe not. Either way, Paxton needs his day in court.

Even Paxton's attorneys agree the case has dragged out too long. And while the conventional wisdom says delays benefit defendants — witnesses move, memories fade, perhaps a piece of evidence gets lost — Paxton defense attorney Dan Cogdell argued that in this case, the passage of time has hurt his client.

“Paxton (like his politics or not) has absolutely been harmed politically by the pendency of the case being swung around like a sword at him by every opponent he has had,” Cogdell told me. Plus, he said, the case hinges on the nuances of several financial transactions, and it would help Paxton for those witnesses' memories to be fresh.

Fair enough. But I should also note the most time-consuming subplot, the fight over curbing the special prosecutors' fees, was launched by a Paxton donor and his allies on the Collin County Commissioners Court, with the unmistakable goal of starving the case of the financial resources needed to continue. Private attorneys had been appointed as special prosecutors at the outset after the Collin County district attorney (a Paxton pal) rightly recused himself.

At this point we're waiting for the Texas Court of Criminal Appeals to rule on the prosecutors' pay and the venue issues. And as The Dallas Morning News Editorial Board recently noted, the ball has been in that court's court *since last October*.

Emphasizing he wasn't criticizing the court, Cogdell acknowledged that “the length these issues have been pending before them has been a long time.”

Baird, a Democrat who served on the Court of Criminal Appeals from 1990 to 1998, was more direct.

“I think the courts are Republican courts and they are stalling this because it helps Paxton politically,” said Baird, who is not involved in the case, just following the headlines like the rest of us. “There's no need for courts to take this extra amount of time to resolve a legal issue. There's just not.”

“Appellate courts are built to receive briefs,” Baird added, “and so a lot of the work is already done when the appellate court considers the issue, to be able to resolve those cases in a timely fashion. They are not doing that in the Paxton case.”

Special prosecutor Brian Wice issued a statement that was silent on the delays, focusing instead on his desired outcome.

“We’re confident the Court of Criminal Appeals will conclude that these cases should be tried in Harris County and the trial judge clearly disobeyed the CCA’s directive in November 2018 to issue new payment orders for our attorneys’ fees,” Wice’s statement said.

In the grand scheme, these securities fraud charges might become footnotes in the story of Paxton’s legal battles. The FBI has been investigating whether Paxton misused his office to help a wealthy friend, Austin real estate developer Nate Paul. Four whistleblowers who reported those allegations to the feds, and later lost their jobs at the attorney general’s office, have sued Paxton. The disciplinary arm of the Texas Bar is asking a judge to reprimand Paxton for making false claims of voting fraud in his effort to have the U.S. Supreme Court overturn the results of the 2020 presidential election.

A dispute over investment disclosures pales in comparison. Still, we all deserve a resolution of Paxton’s securities fraud case, an affirmation that anyone accused of a crime, no matter how powerful, will have to answer for it.

The legal system that applies to most of us should be the legal system for *all* of us.

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