

Press Tycoon Done In by Videotape

After four long months, the trial of Conrad Black, or Lord Black of Crossharbour, is over. On none other than Friday the 13th, Black and his co-defendants were found guilty.

The moral of the story? If you're going to surreptitiously remove 13 boxes of incriminating documents from your office, you should also surreptitiously remove the videotape showing you doing so.

The prosecutors didn't score a big win here. As the jury found Black guilty on only 4 of 13 counts in the first high profile corporate scandal trial since the chaotic Tyco, Enron and Worldcom days, the government isn't thrilled. And since no one wants to spend any time in prison, its safe to assume Black isn't thrilled either. This trial was a close call the whole way through, and the jury's verdict reflected as much. Given an extraordinarily damaging video, the prosecutors still barely got their conviction.

The defense had neatly dealt with just about every issue that came up. But jurors rely on emotion and gut instincts no matter how much you instruct them to only act as automatons applying the facts presented to the judge's legal instructions. The defense really did an excellent job here, but I don't see any way the defense ever could have overcome that videotape.

As a general rule, verbal testimony can never compete with a videotape. And this videotape was devastating. It showed Black kind of arrogantly removing 13 boxes from his office, in violation of a court order directing him not to remove any potential evidence. The issue isn't so much the violation of the Court Order (although that certainly doesn't help matters) as much as who, exactly, did it.

People like Conrad Black simply don't carry boxes. Maybe I might move my own boxes. But this is Lord Black of Crossharbour, the press tycoon who ran a veritable media empire, the former head of Hollinger. He tended toward servants and chauffeurs and private jets. People who use chauffeurs to drive them around in a Bentley don't load the Bentley's trunk with boxes themselves. Unless, of course, the idea is to remove the boxes without even one's own minions knowing about it.

That's why the jury sent Black and his co-defendants a guilty verdict. The jury technically also found that Black was guilty of mail fraud for illegally diverting millions of dollars in so-called non-compete payments to himself and others at Hollinger (by using Hollinger money to pay himself to agree not to compete with himself, he was diverting Hollinger finds from shareholders). The jury also acquitted Black of nine other counts, which were largely based on lavish, excessive vacations, apartments, etc., akin to the Worldcom case. So the jury was deliberative in rendering the verdict. They managed to render a verdict that leaves both sides unhappy.

With that said, if Black had also removed the video of him removing the boxes, I honestly believe he would have been acquitted entirely. I'm obviously not advocating obstructing justice by secretly removing evidence. That's illegal. But it is also what pushed the jury to one side of the fence upon which they'd been sitting for four long months.

The next step is an appeal, but in my opinion Black's verdict won't change much. Sentencing should be interesting, but my guess is something like 15 years in medium security.

Black shouldn't be sent to prison until the appeals have been decided and sentencing has taken place, which should leave him quite a lot of time to view the videotape that was his undoing.