

Court Watch

Judges and the Justice System

Can She Be Indigent With a Mercedes-Benz?

Mamie Tang and John Hickey are accused swindlers with court-appointed and court-funded attorneys. And apparently it's going to stay that way, despite a prosecutor's unusual efforts to the contrary.

Last week, Assistant U.S. Attorney Robert Crowe argued that Tang and Hickey don't deserve "indigent" defense status because the two continue to live in high style while out on bail. They are awaiting trial on charges that they stole close to \$3 million from investors in a now-failed real estate venture.

Crowe's bid to knock the pair off the dole is part of a relatively rare effort to jam defendants who claim they need court-appointed counsel, but appear to have the means to retain their own lawyers.

Prosecutors normally have no say in such

matters. But they do occasionally gripe about court-appointed defense costs in the Northern District, which spends more on defense than any other federal jurisdiction in the country.

Northern District Magistrate Judge Maria Elena James has yet to issue a written ruling in *U.S. v. Tang*, 97-0128, but she indicated at a hearing last week that she would allow the defendants to retain their publicly paid attorneys, according to defense counsel.

Here's what happened:

In the early 1990s, Tang and Hickey got 400 people to invest a total of \$20 million in a real estate venture that quickly failed. The investors filed a class action against the pair in 1995 and a grand jury last year indicted them on criminal charges.

A magistrate appointed attorneys for Tang and Hickey, based on financial affidavits

filed under seal showing they are unable to afford private counsel.

But Crowe contended that he could prove otherwise last week.

Crowe submitted to James the declaration of the FBI agent who arrested Tang last year. According to the agent, Tang "resides at the top floor of 2030 Vallejo St. in the heart of Pacific Heights in San Francisco. Her apartment features floor-to-ceiling windows with fabulous views of the Marina and the San Francisco Bay. The apartment is exquisitely furnished. Tang drives a black Mercedes-Benz."

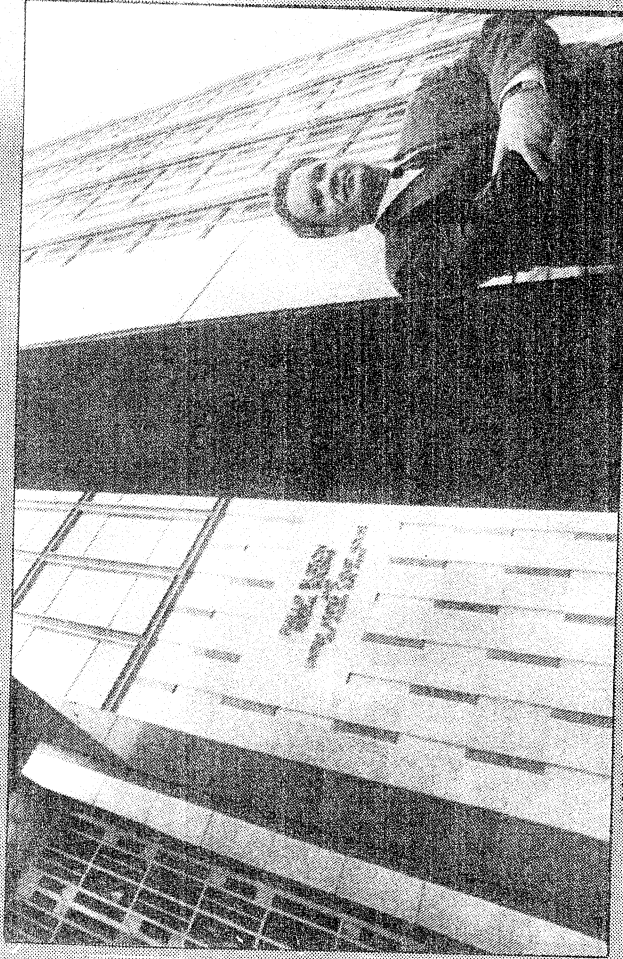
Meanwhile, Crowe argues that real estate deals Hickey has closed in the last year have earned the John Hickey Brokerage \$184,000. Crowe points to the 1997 Chevrolet Blazer Hickey leases at an estimated \$1,500 per month as evidence that Hickey can afford his own attorney.

But Tang's lawyer, San Francisco's William Weiner, dismissed Crowe's arguments as nothing more than "hardball litigation tactics," and pointed out that the Mercedes is not registered in his client's name.

Essentially, Weiner argued that his client has proven her financial status in the only forum that matters — before the court. He contends Crowe should mind his own business and that the FBI agent who filed the declaration hardly qualifies as an interior decorating expert.

Hickey's attorney, S.F.'s David Cohen, argues that the definition of an indigent defendant changes in complex, white collar prosecutions. Cohen estimates that his client would need a \$200,000 retainer to hire a private attorney.

But Crowe says the law only entitles you to effective counsel, and that Tang and Hickey "are not entitled to the best representation money can buy."



STEPHANIE TURNER

COUNTING CROWE: Assistant U.S. Attorney Robert Crowe says two people who allegedly took investors for \$3 million do not deserve court-appointed counsel.

—Paul Eliaz