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'unusual' deal in Dan Markel murder case? Attorneys weigh in



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Published 6:00 a.m. ET Nov. 18, 2022

Katherine Magbanua's agreement to talk to prosecutors as a state witness after being convicted of Dan Markel's murder has Tallahassee-area attorneys scratching their heads as to what bearing her cooperation could have on her life sentence.

Magbanua was ordered Wednesday to return to Tallahassee in late November to give a proffer statement during a closed-door meeting with prosecutors at the courthouse. She was found guilty of first-degree murder and other charges during her May trial and sentenced over the summer.

The move comes in the run-up to the murder trial early next year of Charlie Adelson, Markel's ex brother-in-law, Magbanua's one-time boyfriend and the alleged mastermind behind the murder-for-hire plot.

Exactly what she could divulge and whether she will testify against Adelson are just as unclear as whether her life sentence could be reduced for her cooperation.

"This is out there," said appellate attorney and former 1st District Court of Appeal judge Philip Padovano. "I'm not saying it's impossible, but it is unusual to say the least. I've never seen it."

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Assistant State Attorney Georgia Cappleman and Magbanua's attorneys, Chris DeCoste and Tara Kawass of Miami, all declined to comment on her pending conversation with investigators.

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Padovano said a possible path to reducing Magbanua's sentence could be in vacating her conviction and life sentence then offering her another plea agreement where there could be more discretion over prison time. Outside of that, there are few options.

“Even if you had an agreement, would the judge go along with that?” he asked. “This is not going to be an easy thing to do. The judge simply does not have the power to modify that sentence.”

Padovano isn't alone in that assessment.

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Tim Jansen, Tallahassee criminal defense lawyer, noted that jurisdiction over the case lies with the 1st District Court of Appeal and that Magbanua was offered a plea deal at one point during the six years she awaited trial.

Throughout her trial in May, Cappleman linked her to Charlie Adelson, his lucrative Tamarac dental practice and efforts to cover up the plot. Arrested in April as the alleged financier and orchestrator of the plan to kill Markel, he faces charges of first-degree murder, conspiracy and and solicitation.

Magbanua was convicted for linking the father of her children, gunman Sigfredo Garcia, and his friend Luis Rivera to the orchestrator of the plot, who investigators say is Adelson. Garcia and Rivera drove to Tallahassee in July 2014 and shot Markel at his home on Trescott Drive before fleeing back to Miami to divvy up \$100,000 for the murder with Magbanua.

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Any impact on Magbanua's sentence likely comes down to two things, Jansen said.

“How bad does the state want to get Adelson?” he said. “And they would probably have to clear this with the (Markel) family.”

Michael Ufferman, a Tallahassee appellate lawyer, said providing substantial assistance can be a basis for a reduced sentence, but in his experience, prosecutors are hesitant to make

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“Who knows what she’s going to say. But, if she offers information that’s helpful to the state in getting a conviction, that is the key,” Ufferman said. “In my experience, prosecutors at this stage will never make a promise about that type of reduction, or if there will be a reduction, because doing so makes the witness less credible. They must have some indication that she has something to say that’s helpful.”

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