

# BARDSLEY & CARLOS LLP

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## News and Media

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### **DA's integrity-unit case ends in acquittal, mistrial**

#### **Jury finds Chula Vista councilman not guilty of perjury charges**

The district attorney's prosecution of a Chula Vista councilman on perjury charges failed yesterday when a Superior Court jury found Steve Castaneda not guilty of six of the 10 counts.



Chula Vista Councilman Steve Castaneda (left), shown with his attorney, Marc Carlos, said the trial had been "politically devastating to me. I don't know that it'll ever get back to where it was. But it's a good start."



Castaneda (right) got a pat on the back from his attorney after the jury found the councilman not guilty on six of 10 perjury counts; the judge declared a mistrial on the others. Castaneda was the first elected official to be tried by District Attorney Bonnie Dumanis' Public Integrity Unit. Judge William Kennedy declared a mistrial on the four remaining perjury counts after the jury said it couldn't reach a consensus.

Castaneda said outside the courtroom that the trial has been "politically devastating to me. I don't know that it'll ever get back to where it was. But it's a good start."

In 2006, the District Attorney's Office investigated rumors that Castaneda used his council position to receive free rent or the promise of a reduced price on a condo. No evidence of wrongdoing was found, but the prosecutor believed Castaneda lied to obstruct the investigation.

Last year, he was charged with 13 counts of felony perjury, although a judge dropped three of them after the trial began April 9.

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Castaneda, who is seeking re-election, would have had to resign if he had been convicted. He had three challengers in the same election and said he has had trouble raising campaign funds.

This is a warning that any public official can be brought in, they can be indicted, they can be dragged through the gutter, and there's nothing they can do about it," Castaneda said. The councilman, who works as a transportation and land-use consultant, said he spent \$100,000 on his defense.

The District Attorney's Office could decide to prosecute him again on the remaining charges.

Deputy District Attorney Patrick O'Toole said he will consider the votes of the jury, which had been deliberating since last Thursday afternoon, in making that decision: 10-2 for acquittal on one of the remaining counts, 6-6 on another. For technical reasons, two other counts were dependent on a conviction for the other charges.

Dumanis, who is out of town, said in a written statement that perjury is a serious matter. "We thank the jury for its careful consideration of the evidence," she said. "Our office will continue to hold elected officials accountable for their actions."

The Castaneda trial is another defeat for Dumanis, who last week dropped murder charges against Cynthia Sommer. Sommer had been convicted of poisoning her Marine husband for his life insurance, but new lab tests showed no evidence of poison.

Marc Carlos, Castaneda's attorney, said the District Attorney's Office "spent a lot of money on (the councilman's) case and it's gone nowhere."

Nicole Joaquin said she and the other jurors had difficulty understanding what the crime was. "It's hard to define what perjury actually is," said Joaquin, a preschool teacher. "It's not direct, like a murder, a burglary or a robbery."

Richard Rogers, another juror, said most jurors were sympathetic to Castaneda. "We wish him well," Rogers said.

Neither juror was aware that Castaneda would have had to resign if convicted. Chula Vista's charter bars felons from holding elective office.

Mayor Cheryl Cox said the trial has been "a major distraction."

"It has been a very stressful time in Chula Vista, and I'm glad this chapter is over," Cox said.

Castaneda, who challenged Cox for mayor in 2006, has described O'Toole's investigation as a "political witch hunt." He said he believed Dumanis' office investigated him to help Cox.

O'Toole also has charged Castaneda with two misdemeanors related to omissions on economic-disclosure statements required of city officials. O'Toole said yesterday that a decision about retrying Castaneda could lead to those charges being dropped.

The case against Castaneda involved a tip that he used his position to receive free rent or a discount in 2005 on a converted condominium from Ashok Israni, president of Pacifica Cos. Israni's real estate company has prime property in Chula Vista and Imperial Beach.

Castaneda didn't make an offer or purchase one of the condos, but O'Toole believed he once intended to buy one. No evidence was found that Castaneda received any money from Israni, other than campaign contributions.