

Lawyer: Feds think Foster is ‘the hub’ of drug conspiracy

By Pablo Lopez



Former Fresno Deputy Police Chief Keith Foster, right, leaves U.S. District Court on Friday with his attorney, E. Marshall Hodgkins, without acknowledging reporters.

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Former Fresno police Deputy Chief Keith Foster stood straight and tall in the center of a federal courtroom Friday while he and five others proclaimed through their attorneys that they were not guilty of a 32-count federal indictment that lists a variety of drug charges, including peddling marijuana, oxycodone and heroin.

Being at the center seemed appropriate, since the indictment accuses Foster of participating in three separate conspiracies to distribute oxycodone, marijuana and heroin over the course of the past year.

After the brief hearing in U.S. District Court, Foster, who resigned last week from the Fresno Police Department, didn't get to slip out a back door of the downtown Fresno courthouse — like he did at his first court appearance on March 27.

Instead, he and his attorney, E. Marshall Hodgkins, had to walk out the front door, where reporters and television cameras waited for them.

Foster and Hodgkins walked right past without acknowledging them.

These are tense times for Foster. He is charged with conspiring with co-defendant Randy Flowers to distribute oxycodone. They are charged individually in four separate counts to distribute or possess with the intent to distribute oxycodone. Flowers is further charged with being a felon in possession of three firearms: a Smith and Wesson .357 caliber revolver, a Smith and Wesson .45 caliber pistol and a Remington 30-60 caliber rifle.

The [13-page indictment](#) also charges Foster and Rafael Guzman with conspiring to distribute heroin.

In a third alleged conspiracy, Foster is charged with conspiring with Ricky Reynolds, Jennifer Donabedian, Sarah Ybarra and Iran Dennis “Denny” Foster to distribute marijuana. Reynolds is separately charged with manufacturing marijuana, and both Reynolds and Denny Foster are charged individually in various counts alleging distribution of marijuana. Denny Foster also is charged with being a felon in possession of a firearm. Each defendant is charged in at least one count with using a cellphone in furtherance of a drug trafficking offense. Finally, Denny Foster and Guzman are charged with conspiring to distribute methamphetamine, cocaine and heroin.

All of the defendants are from Fresno, except Reynolds, who is from Shasta Lake. All except Reynolds were arraigned Friday on the indictment before U.S. Magistrate Judge Gary Austin. Only Keith Foster and Donabedian are free while the case goes through the court system.

Foster had served as deputy chief for the past eight years. He joined the Fresno Police Department in December 1986.

Outside the courthouse Friday, Fresno attorney Yan Erick Shrayberman, who represents Flowers, said in general there are two types of conspiracies in criminal law — wheel and chain.

In a chain conspiracy, parties are linked together in a linear fashion. Typically drug or firearm smuggling organizations are chain conspiracies, from manufacturer to major drug dealer to the street dealer. In a wheel conspiracy, the ringleader is the “hub” and the other defendants are “spokes.”

“It’s clear from reading the indictment that the feds think he’s the hub,” Shrayberman said of Keith Foster.

According to the lawyers in the case, Flowers and Denny Foster are Keith Foster’s nephews. Donabedian is Denny Foster’s girlfriend. Ybarra is Donabedian’s friend. It’s unclear how Guzman and Reynolds fit in any of the relationships.

All of the defendants except Reynolds were arrested March 26; Authorities are trying to arrange for Reynolds’ surrender to federal law enforcement officials. The indictment says Reynolds manufactured marijuana in Shasta County and had 50 or more marijuana plants.

In general, defendants are remanded to jail if they are a flight risk or a danger to the public.

At Foster’s first court appearance on March 27, he and the other five defendants pleaded not guilty to a total of four charges that accused them with conspiracy to distribute and/or possess with the intent to distribute oxycodone, heroin and marijuana. U.S. Magistrate Judge Sheila Oberto then allowed Foster and Donabedian to remain free. The other four defendants were ordered to remain in jail.

Shrayberman said Friday that it’s unfair that Flowers stay in custody, especially since he is married with children, has strong ties to the Fresno community and a steady job. His brother is Fresno police detective Ron Flowers.

“They said he’s not a flight risk, but a danger to the community,” Shrayberman said.

Court records say Flowers has a criminal history in Fresno County that includes a 1988 conviction for possession of cocaine base for sale; a 1994 conviction for being a felon and addict in possession of a firearm; and a 2010 conviction for delivery of a schedule II controlled substance from Marion County, Oregon.

Shrayberman said Flowers is accused of possessing a few hundred oxycodone pills. He said that amount is miniscule and typically prosecuted in state court. “The feds usually deal with hundreds of thousands of pills and extensive drug-dealing networks,” Shrayberman said. “But we all know why he’s (Flowers) in federal court. It’s because of Keith Foster.”

Ybarra’s attorney, Richard Beshwate, also thought his client should be free. But he acknowledged that she had a criminal past from many years ago that included a failure to appear in court.

Prosecutors avoided a preliminary hearing, which would have made the evidence public, by presenting the evidence behind closed doors to a federal grand jury. That led to Thursday’s indictment and a second arraignment.

Austin handled Friday’s arraignment after U.S. Magistrate Judge Stanley Boone, a former Fresno federal prosecutor, declared a conflict. Boone was assigned the case after U.S. District Judge Lawrence J. O’Neill recused himself from the case, saying in court papers that he and Keith Foster “have been professionally acquainted for numerous years, having served together at many crime and gang prevention events as lecturers and presenters.”

O’Neill, a former police officer in San Leandro and Fresno County Superior Court judge, said he could be fair, but “the appearance of impropriety alone” led him to remove himself from the case.

If convicted, most of the defendants face a statutory maximum penalty of 20 years in prison and \$1 million fine for the counts involving heroin and oxycodone. In addition, the marijuana charges can bring additional time and fines, as can the gun and cellphone charges.

Initially, Keith Foster faced only three charges — conspiracy to distribute and/or possess with the intent to distribute oxycodone, heroin and marijuana. At Friday’s hearing, Assistant U.S. Attorney Melanie Alsworth said Keith Foster faces eight charges; Flowers faces seven charges; Guzman faces three ; Denny Flowers faces 11 ; Donabedian faces two; and Ybarra faces four.

Keith Foster, who oversaw patrol operations for the department’s four police districts, faces at least 25 years if convicted.

The charges against him and the other six defendants are the result of a joint investigation by the FBI and federal Bureau of Alcohol, Tobacco, Firearms and Explosives. But the specific evidence against them has not been given to the defense lawyers. Under federal law, prosecutors have 14 days to hand over the evidence.

[An affidavit](#) by ATF special agent Sherri L. Reynolds, however, outlines the criminal case against the suspects:

Keith Foster told Flowers in a Dec. 23 phone call that he had “100 of those things” for Flowers. Foster picked up a prescription for 100 oxycodone tablets at a Rite Aid pharmacy drive-thru and then drove his black BMW to Flowers’ home on West Church Avenue in a pocket of southwest Fresno just outside city limits.

Foster picked up another prescription of oxycodone pills on Jan. 27 and then drove to Flowers’ home.

On Dec. 6, Keith Foster called Denny Foster, who was in Redding to obtain marijuana, saying he wanted some “units” for “his boy.” On Dec. 27, an individual known as “J.B.” went to Denny Foster’s home to buy marijuana. Denny Foster, who was not at home, told Donabedian, who lives with him, to get marijuana from a Tupperware bowl with a blue lid and sell it to J.B. for “fifty.”

According to the affidavit, Denny Foster was convicted in Oregon in 2005 for possession of cocaine with intent to distribute, but the conviction was overturned on appeal. In 2008, he was arrested for possession of marijuana for sale in Shasta County. And he was arrested on Jan. 4 on suspicion of possession of marijuana for sale in Merced County and released from custody the next day.

On Dec. 24, agents intercepted a phone call between Keith Foster and Guzman. Keith Foster told Guzman he knew

someone who was trying to “get the black,” a reference to black tar heroin. On Feb. 7, Denny Foster said in a phone call with Ybarra that he was on his way to pick her up so she could ship a half-pound of marijuana to an address in Albuquerque, New Mexico.

Agents lost sight of Ybarra but then were alerted by employees of a FedEx office at Blackstone and Nees avenues about a suspicious package that had been dropped off by a Hispanic woman. Ybarra was identified in the store’s surveillance video as the customer. On Feb. 9, a Fresno County sheriff’s deputy went to the FedEx distribution center, where the package was opened and found to contain eight vacuum-sealed bags of marijuana.

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