

U.S. attorney's zeal will seal her appeal victory



**Joe
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ANALYSIS

about his criminal background. If juror Chappell Hartridge had been accused of omitting a drunken driving charge, that would have been one thing.

But the allegation is that he lied about a gender-based crime — a circumstance any reasonable person could conclude might taint the jury.

Then there's the more troubling matter of Larry Stewart, the chief forensic scientist for the Secret Service. A critical document in

this case, written by Peter Bacanovic, apparently showed that Martha had an arrangement to sell ImClone when it dropped to a certain price.

The government used Larry Stewart to show that Bacanovic had altered the document after the fact.

In a startling development, however, prosecutors have since accused this important witness of lying on the stand. It seems that Larry Stewart never examined the document in question.

More damning still, text messages written by the expert suggest that the work his office did conduct was shoddy.

One could argue that the government's sloppiness failed to prevent the Larry Stewart debacle from tainting the verdict.

But by then, the government's aim had been achieved. One might even question whether the government regrets these serious errors.

Though I have enormous

respect for U.S. Attorney David Kelly, who presided over the prosecution, I was dismayed to see his team mention Martha's "insider trading" 17 times in their opening statement, despite not having charged her with that crime.

Only 9 percent of appeals cases in the Second Circuit succeed. But Martha Stewart has a good shot at being among the nine-percenters.

Miracles happen: I represented Tommy Wiese, a cop acquitted of assaulting

Abner Louima, but (much like Martha) convicted of lying to investigators.

His conviction was overturned.

If Martha fares equally well, perhaps the government will reflect that prosecutorial overstepping undermines the public's faith in the legal system. But don't hold your breath.

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THE government's over-zealousness, which helped bring about Martha Stewart's conviction, may save her on appeal.

That appeal will most likely be built around a couple of liars.

One was a juror who lied