



# The Dallas Morning News

Texas' Leading Newspaper

\$2.49

Dallas, Texas, Monday, August 13, 2018

**DALLASNEWS.com**

## CHARLOTTESVILLE ANNIVERSARY

# Divisions fester year later

Counterprotesters far outnumber handful of white supremacists

FROM WIRE REPORTS

WASHINGTON — After weeks of hype, white supremacists managed to muster just a couple of dozen supporters Sunday in the nation's capital for the anniversary of their deadly rally in Charlottesville,

Va., finding themselves greatly outnumbered by counterprotesters, police officers and representatives of the news media.

But even with the low turnout, almost no one walked away with the sense that the nation's divisions were any closer to healing.

Indeed, the streets of downtown Washington were charged Sunday with tension, emotion and noise, particularly

in the afternoon, as right-wing agitator Jason Kessler and perhaps 20 fellow members of the far right — some wearing bright red "Make America Great Again" hats, some draped in American flags — marched under heavy police escort from the Metro station in the Foggy Bottom neighborhood to their barricaded and heavily protected rally area near the White House.

They were surrounded by a vast, rolling plume of counterprotesters, who hurled insults, waved middle fingers and chanted, "Shame!"

"You killed a girl in Charlottesville!" one voice in the crowd yelled, referring to Heather Heyer, a woman who was fatally injured when a white supremacist rammed his

See **D.C.** Page 9A



Chip Somodevilla/Getty Images

**Counterprotesters** burned a Confederate battle flag near Lafayette Square park, where the white supremacist rally was held Sunday in Washington, D.C.

Shower, storms likely



**5**  
H 85  
L 72

Metro, back page

## METRO & STATE



### Former Sheriff Jim Bowles dies

James Carl "Jim" Bowles, who spent three decades in the Dallas Police Department before serving as Dallas County sheriff for 20 years, died Saturday night. He was 89. **1B**

**Also:** Curious Texas dives deep to answer: "Is there really only one natural lake in Texas?" **1B**

## NATION & WORLD

### Shooting in England leaves 10 wounded

Police in Manchester, England, were investigating a shooting that injured at least 10 people early Sunday as "an attempted murder." **2A**

### Ex-White House adviser taped firing

Fired White House adviser Omarosa Manigault Newman said Sunday that the way Chief of Staff John Kelly dismissed her involved a "threat" and played an audio recording of Kelly that she said she made in the Situation Room. **3A**

**Also:** Orca lets go of dead calf after 1,000 miles, 17 days of grief. **3A**

## SPORTSDAY

### HS football teams play safe in heat

As area high school football teams begin to hit the practice fields, many programs have become more aware of the heat and have been pushing against the stigma that asking for a water break is a sign of weakness. **1C**

### Koepka holds off Woods for PGA win

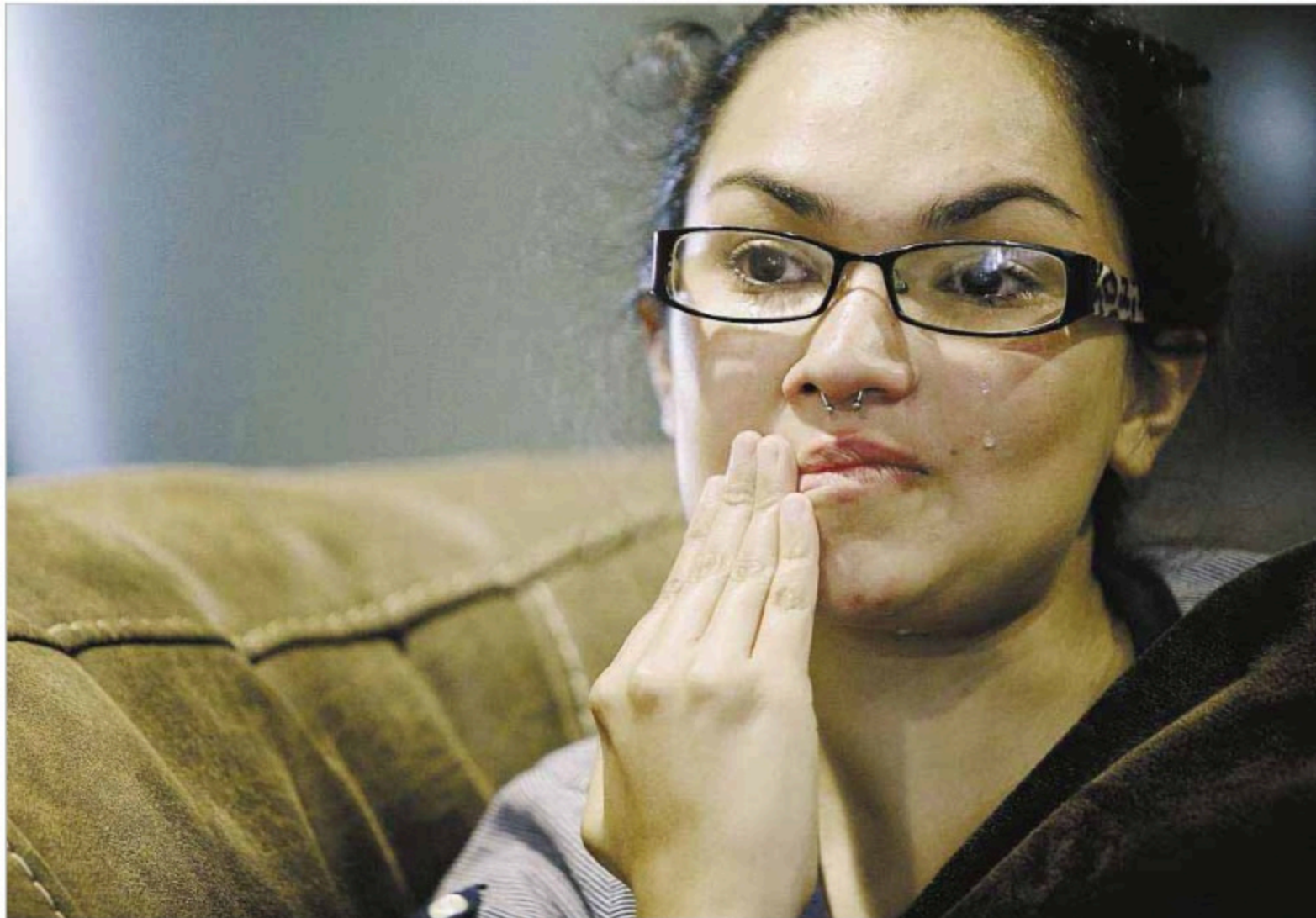
Brooks Koepka held off a rejuvenated Tiger Woods on Sunday to claim the PGA Championship, his second major tournament win of the year. **1C**

## INSIDE

Lottery **2A** Sports TV **2C**  
Nation **2,3,5A** Jumble **4D**  
World **2,6-7A** Classified **4-5D**

## SUTHERLAND SPRINGS MASSACRE

# Life with a killer



Lisa Krantz/San Antonio Express-News

**Danielle Kelley**, the widow of Devin Kelley, talked about him and their rocky relationship recently at her home near San Antonio. Their relationship began in innocence but deteriorated as Devin sank into the depths of despair.

## Widow of church shooter recounts his descent into madness

By **SILVIA FOSTER-FRAU**  
San Antonio Express-News

On the morning of Sunday, Nov. 5, Devin Kelley asked his wife, Danielle, to make him a light breakfast, an unusual request, considering he normally ate a heaping plate of tacos.

Danielle did as he asked. He threw it up minutes later.

She asked if he was OK.

"We only have an hour left," he said.

She assumed he meant he had to go to work.

"He was really different, and off," she said. "Now, going back and looking at it, the things he said then — it was all messed up."



**DEVIN KELLEY** gunned down 26 worshippers.

Then Devin forced his wife, screaming and crying in protest, into the bedroom. Michael watched his father bind his

After breakfast, they sat quietly on the couch while *Alaska State Troopers* played on TV. Danielle watched her husband closely. He seemed disengaged.

Devin stood up. He put Michael, their 2-year-old, in their bedroom. Raeleigh, their 5-month-old daughter, was already in her crib.

mother to the bed with rope, handcuffs and duct tape.

The bedroom filled with the sound of Michael's wails.

Devin told Danielle he loved her. He kissed Raeleigh. And he said to Michael: "I'll be right back."

Strapped to the bed, Danielle watched Devin grab his Ruger AR-556 and two handguns.

She saw him put on his military-style tactical gear and a bulletproof vest.

"You get a sense of what's going to happen," Danielle said. "Because no one just

See **WIDOW** Page 8A

## COURTS

# Federal case results in ban

But SEC didn't have to prove action against Dallas financial adviser

By **KEVIN KRAUSE**  
Staff Writer  
kkrause@dallasnews.com

She never admitted guilt. The government never had to prove its case against her. But Delsa Thomas was banned from the securities industry for life and fined \$1.9 million.

How does that happen?

The government did it in three phases: civil lawsuit, administrative proceeding and criminal indictment. But court records show that no official finding of wrongdoing was ever entered against her.

Because of the overlapping proceedings, Thomas was behind bars on federal criminal charges when a key filing deadline in the related administrative case came and went. Also, the FBI seized evidence she needed to defend herself in that case. The result was a lifetime ban from the securities industry and a quick end to her budding career.

Thomas, 55, an independent financial adviser from Dallas, was at a significant disadvantage because she was without a lawyer during the two civil proceedings brought by the U.S. Securities and Ex-

See **MISSED** Page 4A

## RETIREMENT

# FW feels pension pinch

City prepares for vote in November to fix issue before it becomes crisis

By **SAMANTHA J. GROSS**



2017 File Photo

"People just need to understand that it's a very difficult, very emotional issue for everyone." Fort Worth Mayor

## DEPARTMENT OF JUSTICE

# Agency shifting on voter limits

Restrictions attacked under Obama are buoyed under Trump

FROM WIRE REPORTS

WASHINGTON — A new voter ID law could shut out many Native Americans from

say unfairly targets minority voters.

During the Obama administration, the Justice Department would often go to court to stop states from taking steps like those. But 18 months into President Donald Trump's term, there are



# Missed deadlines led to lifetime ban

Continued from Page 1A

change Commission.

Facing parallel government investigations is a precarious situation even for large companies with teams of lawyers. How you respond to one proceeding can hurt your ability to defend against another. There is the risk of self-incrimination. And declining to cooperate is viewed as an admission of guilt.

Thomas insisted on her innocence. But she was strapped financially because the SEC had obtained a court order freezing her business accounts.

It resulted in missed deadlines and default judgments against her. So even when prosecutors in June 2018 dropped the criminal charges, Thomas' relief was short-lived. She was still stuck with a large fine and no way to earn a living in her chosen profession.

She had to file for bankruptcy in 2016 and remains at risk of losing her home and car. On Aug. 6, Thomas obtained a temporary restraining order to stop her mortgage bank from selling her house in a foreclosure sale. And a financial company is suing her to take her car due to missed payments, court records show.

"It's been horrible. It has affected every part of my life," she said.

Her case illustrates the plight of individuals facing well-funded parallel government investigations. The U.S. Supreme Court has ruled that prosecutors and SEC lawyers can coordinate and share information when targeting people and companies. And as Thomas' case shows, even when the government can't prove its case, it can still win.

The SEC took her securities licenses through an in-house "administrative proceeding," which essentially gave the agency home-field advantage. That's because the judge who heard the case was hired by the SEC and works for the commission.

The regulatory agency was judge, jury and prosecutor in the legal proceeding, which lacks the independence of federal courts. Also, defendants in the administrative courts have found it more difficult than in federal court to prepare their defenses. For example, until recently, they were unable to depose witnesses.

The SEC had years to build its case. But Thomas had to meet tight deadlines — much shorter than if the case had been filed in federal court.

That's been a long-standing criticism of the SEC's increasing use of its in-house disciplinary process. In recent years, even a federal judge has joined the growing calls for reform in light of concerns about procedural unfairness.

The SEC says the process is fair, and the agency did make some changes in response to criticism. But doubts persist. A retired administrative law judge said in 2015 that she felt pressure to rule in favor of the SEC in cases she heard.

Peter Henning, a law professor at Wayne State University in Michigan, said he hasn't heard of a similar scenario in which one court proceeding significantly hurt a defendant's ability to respond to allegations in a second, related case.

"It's an unfortunate part of the process," he said about parallel investigations. "When you face the federal government, you are at a substantial disadvantage."

Henning, a former federal prosecutor and SEC enforcement lawyer, said normally a federal district judge would stay a civil matter when a criminal investigation is underway. But SEC administrative cases work differently, he said.

"They are under some very strict deadlines," Henning said.

## Going solo

Thomas was born in Puerto Rico and raised in the U.S. Virgin Islands. She said she spent 14 years in the Marines and worked as a flight attendant before attending business school at the University of Phoenix. She quickly moved up in the field, becoming a stockbroker for Morgan Stanley in June 2009.

Thomas, who is black, says she worked hard to "make a career in an industry that is not open to people



Google Street View

**An indictment says** Delsa Thomas defrauded the Lighthouse Christian Fellowship Church in Anchorage, Alaska. But the pastor, Kenneth Friendly, blamed the church's financial adviser, James Van Nest, for the lost funds. Friendly told authorities he dealt directly with Van Nest, not Thomas.



Carly Geraci/Staff Photographer

**Delsa Thomas** (center), pictured with attorneys Keron Wright (left) and Aaron Wiley, was banned from the securities industry for life and fined \$1.9 million. The government never had to prove its case against her.

began investigating her. But in May 2012, the agency served Thomas with a subpoena for documents, she said.

Thomas said the SEC's inquiry initially focused on an older investment deal that went south that wasn't her fault. She said she provided the information. The agency kept digging.

Three months after that, in August 2012, Thomas received a subpoena to appear before the SEC to give testimony, she said. Her attorney at the time sent a letter to the SEC, saying Thomas would be exercising her Fifth Amendment right not to speak with investigators.

Thomas says she regrets listening to that advice. She said it made her a target.

The SEC sued Thomas in federal court in February 2013 and obtained the asset freeze, court records show. She said she could no longer afford a lawyer.

The SEC alleged that several years earlier, Thomas had raised about \$2.3 million from six investors in the U.S. and Canada, including her own church. The lawsuit said Thomas and her companies told investors their money would go toward bonds or U.S. Treasury notes when in fact she spent it on "shadowy companies," on Ponzi payments to earlier investors and on herself.

A federal judge in March 2014 granted the SEC's motion for a default judgment for \$1.9 million against Thomas, who never responded to the lawsuit.

Thomas blames her lawyer at the time. She later tried to get the judgment set aside, arguing that she wasn't properly served with court papers. It was denied.

"When my assets were frozen, my entire business was destroyed," Thomas said.

permanently ban her from the industry.

But it didn't go smoothly for the SEC.

Cameron Elliot, the administrative judge, said in a September 2014 telephone prehearing conference with both parties that he needed supplemental briefings from each. He said he couldn't rely solely on the SEC's default judgment in the lawsuit for evidence, according to a transcript of the hearing.

"I just don't have enough solid evidence to reach any conclusions," he said.

Elliot asked whether the SEC could provide "more substantive evidence," like "transcripts of investigative testimony, any particularly useful documents, any statements from investors, things like that."

Elliot also wondered if the SEC had proof that the defendants acted with an intent to defraud, the transcript shows.

Thomas was in Hong Kong on business at the time and still without a lawyer. The briefings were due by Oct. 17, 2014.

Unknown to Thomas at the time, the FBI was questioning witnesses as a result of a criminal referral the SEC had made to the U.S. attorney's office in Dallas, according to documents in the case. She said agents never asked to speak with her, though.

The FBI filed a sealed criminal complaint against Thomas in October 2014 and obtained a warrant for her arrest and a search warrant, court records show. Unknown to her, FBI agents raided her office two days before the deadline in the administrative case, seizing her records.

Thomas filed her supplemental brief a day late from Hong Kong and asked the judge if she could FedEx her



**KENNETH FRIENDLY** is pastor of Lighthouse Christian Fellowship Church.

cess, according to court records.

Elliot set a final deadline for Thomas to submit her exhibits on Oct. 29.

While Thomas sat in a jail cell, her sister called Elliot's office to request more time to file her evidence, according to records in the case.

Elliot was not sympathetic. In his order, he lamented about the delays. The commission, he said, had allotted him just seven months to deliver an initial verdict, and he was already bumping up against it.

Elliot noted he had granted Thomas two previous extensions. And her incarceration, he wrote, did not warrant a third.

Thomas wasn't ordered released from federal custody until Nov. 17. She was indicted the next day on four counts of wire fraud for defrauding a church out of \$1 million in a "high-yield investment scheme." The indictment said she lied to the church about keeping its money safe.

Thomas says she thinks the timing of the search and arrest warrants against her was no coincidence. She called it a misuse of power.

"I believe it was always their intent to keep me in custody until the deadlines passed," she said.

If true — and there is no evidence of it — such a maneuver would be considered improper. Both the SEC and U.S. attorney's office declined to comment about Thomas' case.

Aaron Wiley, her appointed criminal defense lawyer, said the time line raises legitimate questions about whether authorities used the criminal case to gain leverage against Thomas in the administrative case.

Wiley said that, at a minimum, the government took advantage of her precarious situation.

"Prosecutors aren't used to that," he said about Thomas' resolve to continue fighting the allegations against her. "They're used to breaking people down and running them out of money."

## Criminal case

The indictment says Thomas defrauded the Lighthouse Christian Fellowship Church in Anchorage, Alaska.

But the pastor, Kenneth Friendly, blamed the church's financial adviser, James Van Nest, for the lost funds.

Van Nest, 65, was introduced to Friendly by a former parishioner, according to FBI documents obtained by *The Dallas Morning News*.

Friendly told authorities he dealt directly with Van Nest, not Thomas, about a plan to obtain a construction loan to build a church using \$1 million of the church's money as collateral, according to the FBI records.

Friendly told agents he never intended for the money to be invested. And he said he never spoke with Thomas prior to authorizing the release of the church's \$1 million. In four

return. It didn't work, and the money was lost.

In interviews with the FBI, Friendly blamed Van Nest, not Thomas, for the debacle. He said he did not know about the plan between Van Nest and Thomas to try to turn the church's money into a windfall, the FBI records say.

"Friendly was told by Van Nest he could 'make lots of money,'" the FBI documents said. "Friendly held Van Nest responsible for the loss of the funds and contemplated filing a civil or criminal complaint against him."

Friendly did not return calls seeking comment. The FBI didn't respond to a request for comment.

Thomas said the SEC knew that Friendly held Van Nest responsible for the loss but targeted her anyway. Regardless, the government lost its key witness early on.

In June 2015, a little more than six months after Thomas was indicted, Van Nest died in Texas.

But the criminal case against her lingered for 3½ more years, until June 2018. That was when Wiley met with the new prosecutor as they prepared to go to trial.

Wiley had received help from attorney friend Keron Wright in preparing. He said he and Assistant U.S. Attorney Joseph Revesz discussed the case's weaknesses.

"I know the right way to do them, and I know the wrong way when I see it," Wiley said about fraud prosecutions. "And there were things that were missing."

Revesz filed a motion to dismiss the charges, citing Van Nest's 2015 death. A judge approved it the same day.

Thomas says she feels vindicated but has been ruined financially for "something I did not do."

"I don't feel like justice was done."

## Had to be fraud?

Wiley joined a Dallas law firm last year after a 17-year career as a federal prosecutor in Dallas, working on similar white-collar fraud cases.

He called it strange that prosecutors decided to bring a criminal case against his client in the first place. Their single victim, he said, blamed someone else for the losses.

The prosecutor who brought the case, Mark Pittman, was an SEC enforcement lawyer who was on a special detail with the U.S. attorney's office at the time. Pittman is a judge on the 2nd Court of Appeals in Fort Worth. He did not respond to a request for comment.

Wiley said he thinks Thomas became a target because she had some minor trappings of success but didn't go to the best business schools or follow the typical career trajectory for someone in the securities industry.

"How can you be that successful? It must be fraud," he said. "That's what all this was about."

Thomas says she was up to the task of trying to defend herself but was in way over her head.

"I had never been in trouble in my life. I was very naive concerning legal matters," she said.