

Prediction Market Policing Getting 1st Test In Maduro Bet Case

By Aislinn Keely

Law360 (April 30, 2026, 11:06 PM EDT) -- The insider trading case against a U.S. Army sergeant who helped plan the capture of Venezuelan President Nicolás Maduro presents a compelling test for the statutory tools the government can use to police prediction markets, and it sends a message there's more to come, former prosecutors say.

Federal prosecutors and the U.S. Commodity Futures Trading Commission accuse Master Sgt. Gannon Ken Van Dyke of turning a \$400,000 profit using classified information in prediction market trades related to the capture of Maduro. Van Dyke pled not guilty Tuesday in New York federal court to commodities and wire fraud, and to stealing and using confidential government information for personal gain.

The case is the first prosecution and first CFTC suit targeting insider trading on event contracts, which allow users to wager on the outcome of real-world events ranging from political shake-ups to sports matches. As prediction markets have grown in popularity, so have concerns that authorities face an uphill battle policing manipulative trading activity when anyone from government workers to awards show staff could use information they encounter to place sure bets.

Case law is also rapidly developing around the CFTC's jurisdiction over event contracts as the agency battles with states over whether certain contracts are financial instruments known as swaps that are subject to its exclusive oversight. A bevy of state regulators have brought actions against prediction market platforms claiming certain contracts, particularly those that focus on sports and elections, are unregistered bets.

Choosing a first prosecution that concerns a headline-grabbing political event and the heavily scrutinized trading activity that followed was likely intentional, said Rachael Jones of McKool Smith, a former deputy chief of the criminal division at the U.S. Attorney's Office for the Northern District of Texas.

"In general, in white collar crime, one of the best sources of the deterrent value is to make a newsworthy prosecution, and certainly just the facts of this one make it newsworthy," Jones said.

A Good Test Case

Former prosecutors broadly agreed that the Van Dyke case alleges egregious conduct that should make for a strong prosecution. The indictment claims Van Dyke signed nondisclosure agreements regarding operations information and later created accounts on the Polymarket offshore exchange and placed a

large bet on Maduro's capture days before it happened.

The indictment alleges that Van Dyke moved his proceeds to cryptocurrency accounts and later changed the emails associated with the accounts and asked Polymarket to delete his profile as the public picked up on the trading activity.

Experts noted that the government will have to convince the court that the event contracts themselves are swaps in order to make the commodities fraud charge stick. Marc Weinstein of Hughes Hubbard & Reed LLP said it may be an added challenge to explain derivatives regulation to a jury, should the case reach one.

But he added that the case against Van Dyke provides some cushion for prosecutors to test a new theory, as only one charge needs to stick for a conviction.

"If you're going to test something that's relatively novel, why not do it when you've got an easy fallback and the facts are very much in your favor?" said Weinstein, a former New York federal prosecutor. "Because if they ultimately lose that charge, who cares? It has no real impact on the prosecution."

However, a loss on the commodities fraud charge could affect the body of case law surrounding event contracts. As the criminal case moves forward, courts across the country continue to wrestle with whether event contracts, especially those concerning sports or elections, are swaps.

District courts have delivered different opinions in preliminary rulings. On the appellate level, the Third Circuit recently delivered a decision backing KalshiEx LLC's assertion that its sports contracts are swaps and affirming a lower court's order blocking New Jersey regulators from taking action against the company. The Ninth Circuit continues to weigh similar arguments from Crypto.com, Kalshi and Robinhood in their cases against Nevada, but during oral arguments, at least one judge wasn't buying the argument that event contracts are different from bets.

Subsequent decisions in prediction market cases across the country could have an effect on Van Dyke's case, and vice versa. However, experts broadly said it's hard to divine potential consequences since the cases are all on different timelines and span a variety of jurisdictions.

Former New York federal prosecutor Noah Solowiejczyk of Fenwick & West LLP said that if the Van Dyke prosecution heads to trial, he'll be looking closely at any jury instructions. There could be disputes over what the instructions should say or how they should articulate the concept of a swap, which could have implications for other prediction market litigation, he said.

"That would be really the point in the case where it's most likely that the specifics of how you define the swap and some of the other key definitions that are at issue would come into play," he said.

The district court could also wrestle with the swaps question if there is a motion to dismiss in the case, he said.

But experts noted the government did sidestep at least one big open question in choosing the Van Dyke case for its first prediction market prosecution.

Much of the active prediction market litigation with states concerns contracts that focus on sports matches and elections, with courts asked to weigh in on whether the contracts amount to sports betting

and election gambling. Former California federal prosecutor Dan Boyle of Boies Schiller Flexner LLP said the government likely wanted to avoid the sports question in its maiden prediction market prosecution.

"This is a more straightforward question factually, I think that probably lent itself to picking this case to go with," he said.

Open Questions

However straightforward the allegations may seem, the government could still face uphill battles on some issues, according to experts.

On one hand, choosing a first case that concerns an operation of national security sends a strong message amid heightened concerns that members of the government may use their positions to profit in these novel markets, Boyle said.

On the other hand, choosing to make an example of a soldier over other potential government workers could raise eyebrows, said Boyle, who served in the Army himself.

Selective prosecution arguments are tough, he said, but Van Dyke's defense may give it a try.

"I would certainly not be surprised to see Mr. Van Dyke's defense try to highlight the point that the first individual charged under these acts is an enlisted soldier who puts his life on the line, as opposed to some other individual, maybe in a financial capacity, or looking for a financial institution," he said.

Van Dyke may raise questions as to why this is being addressed in federal court as opposed to through the Uniform Code of Military Justice as he's an Army sergeant and the conduct concerns his role in the military, Boyle said.

The indictment pleads multiple facts to tie Van Dyke's trading to New York, including that the offshore platform he traded on, Polymarket, is based there, but experts said prosecutors may still have to wrestle with extraterritoriality and jurisdictional defenses that could become intensely fact-specific.

Counsel for Van Dyke declined to comment.

Messages Sent

The fact that the criminal case puts its commodities fraud charge front and center reflects some cooperation and compromise between federal prosecutors and the CFTC, said Boyle. To some extent, the parallel actions are the CFTC "planting their flag, making it clear that they are the exclusive regulator for these areas," he said.

The DOJ is already working with the CFTC to bring the agency's prediction market oversight challenges against multiple states, including New York.

The cases are also likely to be held up as an example of how trading platforms themselves are cooperating with regulators and prosecutors to root out insider trading, experts said.

Polymarket CEO Shayne Coplan said in a post on social media platform X after Van Dyke's arrest that he was "grateful the DOJ officially acknowledged Polymarket's cooperation on this case."

"Noise aside, the reality is we work proactively with all relevant authorities on any suspicious activity on our marketplace," he said. "We flagged this, referred it, and cooperated throughout the process. This happens constantly behind the scenes, despite what many are led to believe."

Lawmakers and others have raised concerns about the CFTC's ability to catch and enforce insider trading in a landscape where any event can become an opportunity to turn a profit.

CFTC Chair Michael Selig has maintained his agency has the resources to be an effective cop on the beat. His enforcement director, David I. Miller, a former federal prosecutor and veteran of insider trading prosecutions, has said the enforcement division is looking to its registered exchanges as the first line of defense.

Platforms themselves have touted their internal surveillance teams, including Polymarket's announcement Thursday about an alliance with blockchain analytics firm Chainalysis Inc. to monitor trading activity on its offshore platform.

But while the Van Dyke prosecution points to law enforcement's collaboration with platforms, it doesn't give much insight into authorities' surveillance capabilities at this stage, experts agreed.

Platforms and law enforcement may be investing in surveillance tech, "but this probably isn't the case where you needed them," Boyle said. Many online sleuths quickly flagged suspicious activity in prediction markets after Maduro's capture.

"It remains to be seen whether more subtle or infrequent insider trading will be caught by market makers and regulators," he said.

Regardless, the Van Dyke case won't be the only prediction market prosecution, said Fenwick & West's Solowiejczyk. Companies shouldn't assume authorities will limit their scrutiny to events of national security, he said, and practitioners should recognize that the theories at play in the Van Dyke case can affect companies across the board, both public and private.

"Companies need to revisit what it is they're doing in terms of insider trading, compliance training, how they monitor the activities of their employees, because this is sort of this new area where employees of companies can monetize corporate information for profit, and companies need to adjust, because this market's growing, it's not shrinking," he said.

The government is represented by Juliana Murray, Nicholas Chiuchiolo and Ryan Finkel of the U.S. Attorney's Office for the Southern District of New York.

Van Dyke is represented by Zach Intrater of Agnifilo Intrater LLP and Mark Geragos and Tina Glandian of Geragos & Geragos APC.

The case is U.S. v. Van Dyke, case number 1:26-cr-00156, in the U.S. District Court for the Southern District of New York.

--Editing by Brian Baresch.

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