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Mail fraud conviction overturned **Federal judge changes jury verdict in ex-Dallas officer's auto title case** *TODD BENSMAN Staff Writer*

A federal judge in Dallas this week overturned a jury's decision to convict a former Dallas police officer on mail fraud charges as part of a scheme to steal from auto auctions during the 1990s.

Fredric Strong, who has maintained his innocence since being fired from the Police Department in 1999, was convicted in March of three counts of mail fraud and was facing up to 27 months in prison when word of his acquittal was made public Friday.

He was accused of using the U.S. mail to participate in a "title punching" scheme with his brother. Authorities said the pair would purchase cars at public auctions on a promise to pay later.

Instead, they would fraudulently obtain new titles from the Texas Department of Transportation's Carrollton office and sell the vehicles without paying the auctioneer.

Mr. Strong's brother, Phillip Strong, pleaded guilty to similar charges and is set to begin a four-month federal prison sentence this month.

During Fredric Strong's trial, government prosecutors had argued that mail fraud applied because the vehicle title applications and other documents filed by the brothers were mailed between state Transportation Department offices in Carrollton and Austin. But court-appointed defense attorneys Barry Sorrels and Marlo **Cadeddu** contested the March 23 jury verdict, arguing that the use of the mail was not necessary for the scheme to succeed.

On Thursday, U.S. District Judge Barbara Lynn agreed that government prosecutors had failed to prove that federal mail had been crucial to the scheme and granted an immediate acquittal. Her opinion did not address whether the former officer had participated in the fraud.

"The transmittal of the documents by TXDOT Carrollton to TXDOT Austin was merely for record keeping, and the mailings neither advanced the fraudulent scheme nor contributed to an effort to hide it," Judge Lynn wrote in an opinion made public Friday.

Mr. Strong could not be reached Friday. Mr. Sorrels said the judge's decision was the right thing to do.

"It doesn't mean he didn't do anything wrong, just that the government didn't meet the burden of proof beyond a reasonable doubt," Mr. Sorrels said. "I just know I'm very happy for Fred Strong at this moment."

Appeal possible

Assistant U.S. Attorney Michael Snipes, who prosecuted the brothers, declined to comment, citing office rules. But a statement released by the U.S. attorney's office late Friday said prosecutors were seeking permission from the Department of Justice to appeal Judge Lynn's decision.

At the trial in March, Mr. Snipes said Mr. Strong used his police badge and uniform to overcome the skepticism of bank and state transportation employees who questioned the title transfers. But Mr. Sorrels portrayed Mr. Strong as a loving brother who had been running errands for his sibling's car business and was unaware that fraud was occurring.

The jury foreman, contacted Friday about the acquittal, said there was no doubt in any of the jurors' minds that Mr. Strong conspired with his brother to commit fraud.

The question of whether mail fraud charges had been properly applied was never an issue, said Gerald McKim, a real estate appraiser.

"We thought it was cut and dried," Mr. McKim said. "Our charge was did he know it was occurring and if he knew it was occurring, did he turn a blind eye to it, and our answer was yes."

Not upset

Still, Mr. McKim said, he was not upset that a federal judge had overruled the verdict on a specific point of law.

"I'm sure the judge knows and better understands the law much better than the 12 lay people sitting in the box," he said.

Of Mr. Strong, the jury foreman said: "He beat the rap. He found a loophole. I think he had a good attorney, and he walked. It happens all the time. What can I tell you?"

How often federal judges overturn jury verdicts could not be determined Friday, but several lawyers said they had no recollection of any such decision locally.

"It's not like it's unheard of, but it's obviously extremely rare," said Dallas criminal defense attorney Tom Mills, who practices in the federal criminal courts.

Overturing a jury verdict, he said, "requires a judge to really ... know whether the case is going to be affirmed on appeal. If he or she doesn't think so, it's the smart, economic thing to do if it's not going to stand up."

E-mail tbensman@dallasnews.com

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