

STATE COURT TELLS EX-COP HE'S GUILTY IN '75 CASE

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The Michigan Court of Appeals has reversed its own decision and reinstated the 1975 conviction of a former Detroit police officer on charges that he was a prime mover in an elaborate narcotics trafficking conspiracy in the city's 10th (Livernois) Precinct.

In a terse three-page opinion written by Chief Court of Appeals Judge John Gillis, the court reversed its earlier decision, saying it was unaware of a U.S. Supreme Court decision on a similar issue that was binding on this particular case.

THE COURT reinstated the conviction of former Detroit police officer **Richard Herold**, who was found guilty of engaging in a conspiracy to obstruct justice.

The appeals court had ruled in February that Herold was denied his right to a fair trial because the prosecution tampered with his constitutional right to counsel. This occurred, the court ruled, when the prosecution negotiated a deal with former police officer and co-defendant Anthony Lopez and offered him immunity from prosecution in exchange for his testimony.

While such a practice is ordinarily acceptable, the court had said, in this case the prosecution tried to uncover defense strategy through Lopez -- who was represented by Norman Lippitt, the same attorney representing Herold.

HOWEVER, the appeals court, which reheard the case at the request of the Wayne County prosecutor, now says that a 1981 U.S. Supreme Court decision -- in "United States versus Morrison" -- dealt with an almost identical issue, and negated the reversal of Herold's conviction.

In the appeals court's latest ruling, handed down this week, Gillis wrote: ". . . considering the knowledge and approval of defendant Herold's attorney regarding contacts made by the prosecution with witness Lopez during the joint representation and the lack of evidence showing that any trial strategy was in fact communicated to the prosecution as a result of such conduct, we are persuaded that contrary to our original decision, defendant Herold's conviction must be affirmed."

"Quite frankly, it was my goof," Gillis said in an interview Wednesday. "It is up to the opinion writer, and that was me, to double-check, and I didn't. It's the first time it ever happened to me."

The court of appeals handed down its original decision on Feb. 3, when it upheld the convictions of six men but reversed the convictions of Herold and civilian defendant Harold (Rook) Davis.

In reversing Davis' conviction, the appeals court ruled that testimony failed to show Davis was a member of the central conspiracy as charged, and was at best an independent drug dealer.

Both sides in the case said the latest decision would probably be appealed to the Michigan Supreme Court. That means it could be as long as 10 years from the start of the trial to its final disposition.

THE TRIAL -- the longest and most complex and expensive in Recorder's Court history -- included testimony from more than 100 witnesses and the introduction of 150 exhibits.

From May 27 through Dec. 20, 1975, a jury of eight men and four women sitting in the courtroom of Judge Justin Ravitz listened to tales of torture, murder, drug addiction and payoffs to police in 1972 and 1973.

Nine police officers and seven civilians went on trial; three officers and four civilians were convicted.

Police officers whose convictions were affirmed included former Detroit Police Sgt. Rudy Davis and former Police Officer Robert (Moustache) Mitchell, along with Herold. The court also upheld the convictions of civilians Guido Iaconelli, Morris (Moe) Bivins, Harold (Boo) Thurner and Erskine Haslip.

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