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COURTS

Despite false trial testimony, Miami judge upholds 24-year sentence for crack-cocaine offender

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In a rare move, both defense attorneys and federal prosecutors urged a Miami judge to throw out the 24-year prison sentence of a West Palm Beach man convicted of crack-cocaine dealing based largely on the tainted testimony of a now-disgraced police officer.

But U.S. District Judge Joan Lenard, while vacating a key drug offense in the case, refused on Tuesday to toss out the main conspiracy conviction that sent 47-year-old Elroy Phillips to prison in 2002.

As a result, his sentence remained unchanged.

Both sides agreed that fired West Palm Beach police officer Michael Ghent falsely testified that he was working undercover with an informant who allegedly bought crack from Phillips for \$50 on April 6, 2001.

While the judge acknowledged that Ghent's testimony in Phillips' trial was tainted, she ruled that fact alone wasn't enough to undermine the government's entire drug conspiracy case. Lenard cited other co-conspirators accused of dealing who cooperated and testified against Phillips.

In particular, Lenard cited a federal appeals court's earlier ruling upholding Phillips' conviction on five drug-related charges at trial, in which prosecutors portrayed him as the "ringleader" of a crack-cocaine network based at a West Palm Beach apartment building.

In her decision, Lenard noted the 11th U.S. Circuit Court of Appeals found that the "extensive evidence the government presented left the jury with many ways to conclude that Phillips conspired to distribute five or less grams of crack cocaine without necessarily concluding that Phillips conspired with the government agent [Ghent] on the April 6 transaction."

Phillips' attorney, Marc Seitles, expressed disappointment in the judge's 113-page ruling. Seitles said Wednesday he would continue to pursue his client's appeal despite the significant setback.

"Mr. Phillips has spent 12 years in jail for convictions premised on the investigation, affidavit, reports and testimony of an officer who engaged in dishonest, immoral, illegal and illicit conduct," said Seitles, who worked on the appeal with lawyer Ashley Litwin.

"Convictions should never stand when the lead cop becomes the criminal," he said.

Phillips has long insisted that the alleged drug deal never happened.

From his prison cell, he continued to investigate his case, and found records showing that Ghent was not on duty on April 6, 2001. In fact, Ghent was taking a training course in hostage negotiation on the night of the alleged drug deal.

A private investigator later helped with the case and found Ghent's informant, who said that she never bought drugs from Phillips.

Phillips' case was also highlighted in a series of articles in the New Times Broward-Palm Beach.

Ghent was later arrested on bribery charges for taking payoffs from a West Palm Beach massage parlor turned brothel called Relax With Us. The charges were dropped as part of a plea deal, and Ghent agreed to surrender his certification to work as a law enforcement officer. Ghent now lives in Arizona.

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