

Court Reinstates Mandel's License To Practice Law.

By Jef Feeley
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The Maryland Court of Appeals yesterday restored former Gov. Marvin Mandel's license to practice law in the state, in the wake of the U.S. Supreme Court's June 19 decision not to reinstate his 1977 criminal convictions for racketeering and mail fraud.

The court also reversed a previous order which had prevented Mandel's son, Gary, from practicing law. The son's disbarment, however, was unrelated to the senior Mandel's law license termination.

Gary Mandel had been suspended from the practice of law because of drug-related problems.

Upon hearing the news that his son also had his license to practice law restored, Mandel acknowledged there would be "quite a celebration in the Mandel household tonight."

In a one-page order signed by Chief Judge Robert C. Murphy, the state's highest appellate court said its decision was based on Marvin Mandel's own petition for reinstatement and the Attorney Grievance Commission's supporting recommendation.

"We had no hesitation in reinstating Mr. Mandel," Murphy said. "Bar counsel consented to it because the legal basis for the disbarment — the criminal conviction — had been removed. There also was no indication that anyone was going to reopen the case."

The court's action clears the way for Mandel, who was disbarred in 1982 after appeals of his criminal convictions were denied, to return

to his full-time law practice, which included an emphasis on real estate work.

For his part, Mandel said yesterday he was "just ecstatic and delighted" that the Court of Appeals had restored him as a licensed Maryland lawyer.

"It's all happened so quickly that I haven't sat down and made any plans about what my future in the law holds," the former governor said. "But I expect to be involved, in some way, in the practice of law in the future."

Many legal observers have predicted that once Mandel was readmitted to the Maryland bar, he would use his contacts in Annapolis to lobby on behalf of clients.

Mandel, who has been working as a consultant for a Severna Park contracting company and doing some lecturing at local law schools, said he did not know whether he will end up donning the lobbyist's hat.

"I haven't really given that much thought. I don't think Bruce Bereano has anything to worry about from me," Mandel joked.

Bereano, an Annapolis lawyer, is recognized as the state's highest paid lobbyist, earning nearly \$1 million in fees during the most recent session of the Maryland General Assembly.

Mandel added that the 12-year battle over his criminal conviction had left him "exhausted" and said he hoped his reinstatement would end the matter.

"I'm just grateful to my attorneys [Arnold Weiner, M. Albert Figinski and Stuart Berger] for all their work. They made this all possible," Mandel explained.

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The legal skirmishing over Mandel's case came to an end 11 days ago when the U.S. Supreme Court announced it would not review a lower court ruling overturning the former governor's convictions.

Mandel and five others were found guilty of racketeering and mail fraud in connection with an alleged scheme in which Mandel was bribed to provide more racing days for a Prince George's County race track.

Convicted along with Mandel were Irvin R. Kovens, W. Dale Hess, Harry Rodgers III, William Rodgers and Ernest Cory Sr., all of whom were connected to the events involving the Marlboro Race Track.

But in November 1987, U.S. District Judge Frederic Smalkin vacated the Mandel defendant's convictions in the wake of a Supreme Court decision that changed the prevailing interpretation of the federal mail fraud statute.

Smalkin held that the high court's ruling in the Kentucky mail fraud case of *McNally v. U.S.* made it clear that the acts for which Mandel and the others were convicted did not actually amount to a violation of that statute.

In *McNally*, the Supreme Court held that the conduct of a state government official, who had been convicted of mail fraud for defrauding the citizens of his state out of their "right to good government" was not a federal crime.

Based on *McNally*, Smalkin threw out the Mandel defendants' convictions, reasoning

they had been found guilty under the same theory as the Kentucky official.

Mandel's petition

In his petition for reinstatement, Mandel noted that the Maryland Court of Appeals already had reinstated a lawyer who had been convicted of mail fraud, but had his conviction reversed in the wake of *McNally*.

Mandel's lawyers said that in the case of *In the matter of Lee Lovett*, the court restored Lovett's right to practice once his criminal conviction no longer existed.

"Bar counsel filed its response to Lovett's petition for reinstatement stating that 'in view of the fact that disbarment . . . [was] based on a criminal conviction that no longer exists, it would appear to the Attorney Grievance Commission of Maryland that respondent should be reinstated to the Bar of Maryland.' On February 28, 1989, the Court of Appeals ordered Lee Lovett be reinstated," the petition said.

"Similarly, in this case, because the conviction upon which Mandel's disbarment was based has been vacated, there is no conviction and, consequently, no valid disbarment," the former governor's lawyers argued.

"With the predicate for disbarment having been set aside, Mandel is not properly disbarred and is entitled to immediate reinstatement," the lawyers concluded.