



BALTIMORE, MARYLAND



THE SUN/BARBARA HADDOCK

Marvin Mandel and his wife, Jeanne, hold a news conference after the Supreme Court refused to reinstate his conviction.

Court refuses to reinstate Mandel conviction

Former governor's victory extends to five associates

By Lyle Denniston
and Doug Birch
Sun Staff Correspondents

WASHINGTON — Former Maryland Gov. Marvin Mandel won a final and complete legal victory yesterday when the U.S. Supreme Court left intact a federal appeals court ruling that wiped out his 1977 criminal conviction.

The high court action — one line simply

refusing to reconsider the lower court decision — ended the 14-year fight over a scandal that drove Mr. Mandel out of office. The victory also extended to five of Mr. Mandel's associates, meaning that they will recover thousands of dollars they had paid in fines and forfeited assets.

They are W. Dale Hess, brothers Harry W. Rodgers III and William A. Rodgers, Irvin Kovens and Ernest N. Cory Jr., who owned or had interests in the Marlboro Race Track, which was at the center of the criminal case and the scandal that led to that case.

The Supreme Court's action also may help the 69-year-old Mr. Mandel in his attempt to

regain his license to practice law. He was disbarred after his conviction on charges of mail fraud and racketeering.

"It's just absolutely great," Mr. Mandel said. "I feel like I can come back in from the cold now."

Later, during a press conference at his lawyer's office, Mr. Mandel expressed relief, "a feeling that it has finally come to an end, that it's all over."

The former governor said the drawn-out proceedings had taken their toll on him and his family, especially his wife, Jeanne, who

See **MANDEL**, 8A, Col. 1

Supreme Court leaves intact ruling that wiped out Mandel's conviction

MANDEL, from A1

was by his side yesterday.

Mr. Mandel said he doubted he would again run for public office, but said he planned to keep his hand in state politics.

"There's no question I will be involved," he said. "I've always been involved. I've never really gotten away from being involved."

Arnold M. Weiner, Mr. Mandel's lawyer, declared: "Marvin Mandel and his co-defendants committed no crime. The courts have now agreed."

But Breckinridge L. Willcox, the U.S. attorney for Maryland who attempted to bring the appeal before the Supreme Court, disagreed.

"Marvin Mandel abused the power and trust of his position. He disgraced the office of governor, and he was found guilty by a jury of conscientious Maryland citizens," Mr. Willcox stated. "His conduct was a crime

in 1975 and remains so today."

"If a case with the same set of circumstances walked in the door today, we would prosecute it just as vigorously," he said. Mr. Mandel "escaped through this narrow window of opportunity," he said.

To which Mr. Mandel replied: "Look, I'm not going to get into an argument with the U.S. attorney. I can understand how he feels — very badly — but if you argue with a fool, you've got two fools."

Barnet D. Skolnik, former chief prosecutor in the Mandel case and now a Baltimore lawyer, said he finds the defendants' claims they were vindicated by the courts "troublesome."

"He portrays himself as an innocent man wrongly convicted, and that's a lot of crap," Mr. Skolnik said. "And Mandel knows it's a lot of crap. But he's a good politician and he knows the game and he plays the

media like a violin. That his conviction was overturned because the wrong statute was used is a footnote; that he was a corrupt governor who took bribes — that's important."

Nonetheless, Mr. Mandel appears likely to be reinstated to the bar. Mr. Weiner said yesterday's Supreme Court order "should weigh significantly" in his reinstatement attempt. Melvin Hirshman, a lawyer for the state's Attorney Grievance Commission, which investigates petitions for reinstatement to the Maryland bar, said "chances probably are good" that the state Court of Appeals will restore Mr. Mandel to the bar.

At the time the case began with a grand jury indictment in 1975, Mr. Mandel was the state's undisputed political leader. Ultimately, however, he became the nation's first governor in 53 years to be convicted while in office. The conviction forced him out of office. He served 19 months in

prison.

Mr. Mandel and his five associates were convicted of taking part in a mail fraud scheme involving gifts of clothing, jewelry and interests in land in return for supporting legislation to increase the number of racing days at Marlboro Race Track. Mr. Mandel was charged with gaining \$350,000 in personal profit out of the scheme.

The scheme was found by a jury to have defrauded the citizens of Maryland of the honest services of Mr. Mandel as governor of the state.

Before the case ever went to trial, Mr. Mandel and his associates tried to get it dismissed, arguing that the mail fraud law did not apply to schemes in which there was no actual loss of property but only a harm to good government.

That maneuver failed at the time, and each of the six men was convicted on 125 counts of mail fraud

and one count of racketeering. Mr. Mandel, Mr. Hess, Harry Rodgers and Mr. Kovens each received four-year prison terms. William Rodgers was sentenced to 20 months, and Mr. Cory to 18 months, which was suspended. In addition, Mr. Hess, Harry Rodgers, William Rodgers and Mr. Kovens were fined \$40,000 each. Mr. Mandel was not fined.

Mr. Willcox said yesterday the government shortly would be returning the amount of those fines — checks for \$40,000, with no interest — to each of the four men.

In addition, the government will return to Mr. Hess and the Rodgers brothers \$157,500 each — the value of their stock ownership interests in Marlboro Race Track that were forfeited as part of the racketeering verdict. Mr. Cory will receive about \$11,000 for his interest in the track, Mr. Willcox said.

In their first unsuccessful appeals of the convictions, the six men contended again that the mail fraud law did not cover a case like theirs. But in 1987, the Supreme Court agreed with that challenge in another case.

Mr. Mandel and his five associates then returned to federal court, seeking to take advantage of that decision. U.S. District Judge Frederic N. Smalkin of Baltimore applied the decision to their case in 1987, overturning their convictions entirely and ordering the return of fines to the four who had paid them.

The 4th U.S. Circuit Court of Appeals upheld that result last December, causing the Justice Department to take the case on to the Supreme Court, seeking to have the convictions reinstated.

Reporter William F. Zorzi Jr. of The Sun's metro staff contributed to this article.