

# High court ruling may aid Mandel, his lawyers say

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ANNAPOLIS — Attorneys for Marvin Mandel think this week's U.S. Supreme Court decision restricting the scope of the federal mail-fraud statute not only may help the former Maryland governor regain his right to practice law but could lead to a full presidential pardon.

"What's clear is that Mr. Mandel was convicted of a non-existent crime," said Mr. Mandel's attorney, Arnold M. Weiner. "Further, the Supreme Court invalidated this application of the mail-fraud statute for the very reasons that were raised in the Mandel case."

But Barnet D. Skolnik, chief prosecutor in the Mandel case, said a change in application of the law in 1987 had no effect on its validity in a 1977 trial. "Mandel was convicted properly under the law as it existed at the time, and the fact that the law changes 10 years later hardly invali-

dates his conviction," he said.

Mr. Skolnik, now in private law practice, said Mr. Weiner "has conveniently forgotten" that Mr. Mandel was also convicted on a racketeering count.

In a decision Wednesday involving a Kentucky case, the nation's highest court sharply restricted the federal government's power to use the 115-year-old mail-fraud statute to prosecute political corruption. The high court said the 1872 law was intended to apply only to frauds conducted through the mail in which the government or someone else actually loses money or property.

"The Supreme Court is saying [the law] was incorrectly interpreted," said Mr. Weiner, who had been unable to persuade the high court to hear Mr. Mandel's appeal of a conviction that was once overturned and then twice reinstated — each time on tie votes — by the 4th U.S. Circuit Court of Appeals in

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**MANDEL, from 1C**

Richmond, Va.

"The Supreme Court has finally settled the debate," he said. "Congress never intended to make it a federal crime for a public official to violate some undefined federal standard as to how a state or local official should conduct himself in office."

Bruce C. Bereano, an Annapolis attorney who in 1981 helped obtain from President Reagan a commutation of Mr. Mandel's federal prison sentence, said he has been working at the former governor's request for about five months on an application for a presidential pardon.

"The papers have not yet been filed, but they are in the final stages" of preparation, Mr. Bereano said. "And, coincidentally, this opinion comes out.

"If this opinion says what it is reported to say — I have not yet read it, but I understand it has a lot of discussion in it about the Mandel case — then from the standpoint of equity, justice and fairness, it should strengthen the former governor's position," Mr. Bereano said.

Mr. Weiner, of the firm of Melnicove Kaufman Weiner & Smouse in Baltimore, said the ruling provides Mr. Mandel with "several avenues of relief," including help in the former governor's continuing effort to reclaim the right to practice law.

M. Albert Figinski, another attorney in Mr. Weiner's firm who has been handling Mr. Mandel's request for reinstatement to the bar, declined to comment on that effort.

Mr. Skolnik, now a partner in the

law firm of Whiteford, Taylor and Preston, said yesterday that Mr. Mandel violated the public trust in receiving "about a third of a million dollars" from his co-defendants in exchange for help on legislation beneficial to the race track the then-governor's friends had secretly bought.

"The notion that anybody who has been shown to have done what Mandel did should be allowed to practice law is an outrage because what it does is to feed the public perception that lawyers are a rung or two below used-car salesmen in integrity and trustworthiness," Mr. Skolnik said.

Russell T. Baker Jr., who was U.S. attorney when the Mandel case was appealed, said the Supreme Court decision is "dead wrong."

"It's just an astounding conclusion to come to this late in the game. The mail-fraud statute has been used this way for 20 to 25 years," he said. "There must be thousands of convictions based on this."

Mr. Baker said the opinion "seems to weaken" the government's case against Mr. Mandel but that he doubts the conviction could be overturned retroactively.

Mr. Mandel was first suspended from the practice of law in 1977, following his initial conviction, then permanently disbarred by the state Court of Appeals in October 1982. Although the seven-member court unanimously voted for the disbarment, saying Mr. Mandel was guilty of a "crime of moral turpitude," it also cited Mr. Mandel's mental anguish and suggested that the right to practice law might be restored.