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HEADLINE: High court affirms ruling clearing officer of manslaughter conviction

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DATELINE: BALTIMORE

BODY:

The state's highest court on Thursday affirmed a ruling that overturned the conviction of a police officer who shot and killed a driver in a 1996 traffic stop.

The Maryland Court of Appeals agreed with a lower court's ruling that a trial judge erred in not granting a motion to dismiss the charges against Sgt. Stephen Pagotto for lack of evidence.

"We agree with the Court of Special Appeals that the evidence presented at trial, as a matter of law, was insufficient to support a conviction of involuntary manslaughter or reckless endangerment," wrote Judge Irma S. Raker in the majority opinion for the court. Pagotto, Raker wrote, was "neither grossly negligent nor reckless."

Chief Judge Robert Bell was the lone dissenter in the 6-1 decision.

Pagotto testified that he fired accidentally when he was knocked down by Preston Barnes, 22, who tried to drive away following a traffic stop on the night of Feb. 7, 1996.

Barnes and his two passengers were carrying 10 bags of crack cocaine in their car when they were pulled over.

A Baltimore Circuit Court convicted Pagotto of involuntary manslaughter and two counts of reckless endangerment of two passengers in the vehicle in December 1996. The Court of Special Appeals overturned the conviction last year.

Prosecutors had argued that Pagotto did not follow proper police procedure when he approached the vehicle with his gun drawn and his finger on the slide of his Glock. Pagotto had also erred, prosecutors said, when he tried to remove Barnes from the car with one arm.

In his dissent, Bell wrote that Pagotto's conduct was "reckless and criminally negligent."

The three safeties on Pagotto's weapon, Bell wrote, prevented it from firing unless pressed with 10 1/2 pounds of pressure, "making it almost impossible to discharge unless dropped or struck against an object."

Pagotto was originally sentenced to three years, later reduced to 20 months, and he was freed on bond pending appeal. He reached a confidential settlement with Barnes' mother in a 1997 wrongful death lawsuit.

Barnes' death prompted rallies by angry residents alleging race was a factor in the shooting of a black driver by a white police officer.