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Ex-FBI agent's fate still unclear

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Disgraced FBI agent John Connolly should serve 40 years in prison for the 1982 Miami murder of a former gambling executive, a Miami-Dade judge ruled Thursday.

Saying Connolly "tarnished the badge," Circuit Judge Stanford Blake nevertheless agreed with defense attorneys' assertion that the statute of limitations had run out for the murder charge. But he refused to throw out Connolly's conviction because the ex-agent's lawyers waited too long to file their challenge.

Blake's ruling left the door wide open for the defense team to head to an appeals court. Defense attorney Manny **Casabielle**, predicting eventual victory, optimistically proclaimed Connolly a "free man."

"There is no doubt that John has won," **Casabielle** said.

Miami-Dade Assistant State Attorney Michael Von Zamft disagreed with Blake's legal analysis, saying, "We believe the conviction will be upheld on appeal."

In November, jurors convicted Connolly, 68, of second-degree murder in the slaying of former World Jai-Alai executive John Callahan.

A star FBI agent in Boston in the 1970s and '80s, Connolly was accused of becoming corrupted by his star informants: Winter Hill gang leaders James "Whitey" Bulger and Stephen Flemmi.

The corruption saga became Boston crime lore. Bulger remains the FBI's second most wanted fugitive after Osama bin Laden. Bulger and Connolly served as loose inspiration for the 2006 Oscar-winning flick *The Departed*.

While Connolly's defense team was upbeat, the ex-agent did not escape harsh words from Judge Blake. He said Connolly had "become part of this criminal organization."

"For an FBI agent to go to the dark side is a sad, sad day for any judge or any society to see," Blake said.

Prosecutors say Connolly tipped the Winter Hill gangsters that Callahan might cooperate in the probe of their earlier murder of World Jai-Alai owner Roger Wheeler.

Gang hit man John Martorano responded weeks later by shooting Callahan dead, leaving his corpse in a Cadillac trunk at Miami's airport.

Connolly was charged in Miami-Dade in 2005 with first-degree murder and conspiracy to commit first-degree murder, which carry no statute of limitations. Jurors returned a second-degree murder verdict instead.

Also at issue: a gun.

In 1982, when the slaying occurred, the statute of limitations for second-degree murder without a firearm was four years. Using a gun was an "enhancement" that meant no time limit for prosecution.

The government maintained Connolly did use a gun because, three weeks before the slaying, he carried his FBI service weapon while slipping mobsters the information that sealed Callahan's demise.

Blake disagreed, adopting the defense position and likely shifting the final decision on the conviction to the Third District Court of Appeal.

"There is no evidence that [Connolly] had actual possession of the firearm during the commission of the crime," Blake wrote. "Possession cannot be imputed."

Connolly is already serving prison time. A federal jury convicted him of racketeering in 2002 for his role with Bulger's gang. He will complete that 10-year sentence in 2011.

If the Miami-Dade conviction stands, under 1982 law, Connolly could serve one-third of the 40-year sentence.

Boston federal prosecutor Fred Wyshak, who tried the case with Von Zamft, said after the hearing he is confident Connolly's conviction will stand.

He blasted FBI corruption that went overlooked for so long and made Bulger into Boston's criminal kingpin.

"Evil triumphs when a few good men fail to act, and that's what happened in the Boston office of the FBI," Wyshak said.

See a photo gallery and read past coverage

PHOTOS BY PETER ANDREW BOSCH/MIAMI HERALD STAFF MIGHT NOT SERVE: A star FBI agent in Boston in the 1970s and '80s, John Connolly was sentenced to 40 years in prison for his role in a gang slaying.

REASSURANCE: After being allowed to change from his prison jump suit to civilian clothes for his court appearance, Connolly gets a hug from his wife Elizabeth.

PETER ANDREW BOSCH/MIAMI HERALD STAFF LEGAL CONFERENCE: John Connolly, left, speaks with attorneys Manuel **Casabielle**, center, and Bruce Fleisher. They will appeal the 40-year sentence.

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