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## Connolly gets 40 years in prison

But judge suggests sentence may not stand



Former FBI

agent John J. Connolly Jr. during his sentencing hearing in Miami-Dade Circuit Court in Miami yesterday. Connolly was sentenced to 40 years in prison. (Photos by Peter Andrew Bosch/Associated Press/Pool)

By Shelley Murphy

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MIAMI - A judge yesterday berated former FBI agent John J. Connolly Jr. for tarnishing his badge and slapped him with a 40-year sentence that would keep him in prison until 2021 for his role in the 1982 killing of a Boston businessman in Florida.

Yet even as he handed down the punishment, the judge suggested that it's unlikely Connolly's conviction for second-degree murder with a gun will stand because of statute of limitations problems.

"There is no doubt in my mind that John has won," said Connolly's lawyer, Manuel L. Casabielle, adding that the judge has "unequivocally said that the conviction is illegal."

But prosecutors disagreed, saying they believe the conviction will be upheld on appeal.

Miami-Dade Circuit Judge Stanford Blake concluded that the defense was "legally correct" in arguing that jurors should not have been allowed to consider the second-degree murder charge. However, he said he did not have jurisdiction to toss the conviction prior to sentencing because the defense waited nearly a month after the verdict to challenge it.

Connolly's lawyers say they will file a motion to vacate the sentence within a few days. Still, the judge left no doubt that he believed Connolly was not innocent.

"Mr. Connolly, the jury has found that you tarnished the badge that so many wear proudly," said Blake, as Connolly, 68, remained seated between his lawyers, his face expressionless. "For an FBI agent to go to the dark side is a sad, sad day for any judge or any society to see."

If Connolly's conviction and sentence are upheld, he will be required to serve a third of his 40-year prison term, after he wraps up his federal sentence in June 2011. He will get credit for the 3 1/2 years he has spent in solitary confinement in a Miami jail while awaiting trial on the state case.

In November, after an eight-week trial, the jury found Connolly guilty of second-degree murder with a gun for leaking information to longtime FBI informants James "Whitey" Bulger and Stephen "The Rifleman" Flemmi that prompted the gangsters to orchestrate the murder of John B. Callahan.

Flemmi, who is serving a life sentence for 10 murders, testified that Connolly warned him and Bulger that the FBI was seeking Callahan for questioning and the businessman would probably implicate the gangsters in the 1981 killing of World Jai Alai owner Roger Wheeler.

Hit man-turned-government witness John Martorano told jurors that at the urging of Bulger and Flemmi, he lured Callahan to Florida and killed him. The 45-year-old executive's body was found Aug. 2, 1982, in the trunk of his car at Miami International Airport.

The judge said yesterday that Connolly befriended Bulger and Flemmi and "became part of this criminal organization."

Callahan's widow, Mary, and daughter, Kathleen, who live in Massachusetts, and his son, Patrick, who lives in California, did not attend yesterday's hearing, but listened by telephone conference.

"We are very relieved," Mary Callahan said during a telephone interview after the hearing. She said she is grateful that Connolly has been sentenced, even if the case is ultimately overturned.

"That's going to take awhile, so I really don't care at this point," she said. "He's been convicted twice . . . that's not a very good record."

Connolly, who did not take the stand during the trial but has maintained his innocence, declined to comment yesterday. Dressed in a dark suit jacket, khaki pants, white shirt, and red and blue tie, he remained in the courtroom for about a half-hour after the judge left the bench, chatting with his wife, Elizabeth; sister, Sally, brother, James, and about a dozen friends who came to support him.

Connolly, who retired from the FBI in 1990, is serving a 10-year prison term for his 2002 federal racketeering conviction for protecting Bulger and Flemmi from prosecution and warning them to flee just before the gangsters were indicted on federal charges in Boston in January 1995.

Bulger, 79, who is charged with 19 killings, remains one of the FBI's 10 Most Wanted.

"Evil triumphs when a few good men fail to act, and that's what happened in the Boston office of the FBI," said Fred Wyshak, a federal prosecutor from Boston who assisted the State of Florida in prosecuting Connolly.

"It wasn't a single episode of misconduct," he said. "It was a pattern of misconduct over 20 years. They can't hide anymore. The jury has spoken."

Wyshak said he's confident the conviction will be upheld, but the most significant part of the case was that a Florida jury found Connolly was responsible for Callahan's murder.

Gail Marcinkiewicz, a spokeswoman for the FBI in Boston, declined to comment on the case yesterday, citing the ongoing appeals issues.

Connolly's lawyers argued in the motion filed last month that jurors were erroneously instructed before deliberations, at the prosecution's request, that if they acquitted Connolly of first-degree murder and conspiracy to commit first-degree murder, then they could consider the lesser charge of second-degree murder with a gun.

Under current Florida law, there is no statute of limitations on any crime resulting in death. But at the time of Callahan's death there was a four-year statute of limitations on second-degree murder, unless a gun was used.

Casabielle argued that Florida case law indicates that only the triggerman in a killing can be convicted of second-degree murder with a gun. It's uncontested that Connolly was on Cape Cod when Callahan was killed. ■

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