

Ex-UMDNJ exec gets split verdict in dumping case

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A jury in Newark yesterday acquitted a former administrator at the University of Medicine and Dentistry of New Jersey of one charge of illegal dumping but convicted him of witness tampering.

Jurors also deadlocked on a second count of illegal dumping.

In convicting Gerald Portee, 52, of Franklin Township of witness-tampering, the panel of seven men and five women found he told one of his subordinates what to say to state investigators looking into two discharges from the facility's power plant into Newark's sewer system in August 2003.

Portee faces a maximum punishment of five years in prison and fines up to \$15,000 at sentencing, though his lawyer and state authorities agreed it was unlikely he will go to prison because he has no criminal record.

Superior Court Judge Harold Fullilove did not set a sentencing date but did ask opposing lawyers to return to court early next month to discuss what will become of the deadlocked count.

Attorneys for each side claimed victory after the verdict, while Portee was less enthusiastic over the outcome and vowed to pursue an appeal to clear his name. He also said he'd like his old job back, but UMDNJ spokeswoman Anna Farneski said he was no longer employed by the institution.

"I've worked for the state of New Jersey for 30 years," Portee said. "This is disappointing. All I asked for was a fair forum, but it didn't seem like I got one."

"This case was all about two illegal discharges, and the jury rejected the government's prosecution on both of those counts," said defense lawyer Ravinder Bhalla.

But Edward Bonanno, chief of the Environmental Crimes Bureau in the state Division of Criminal Justice, said, "We feel this was a very positive verdict and that it will send a strong message to anyone in a regulated area, those in the general public as well as Mr. Portee."

Bonanno added it was too early to say whether the state will seek to retry Portee on the deadlocked count or what penalty prosecutors will ask for at sentencing.

Jurors declined comment when leaving the courtroom. They deliberated more than 12 hours over three days before reaching their verdict and on Monday informed Fullilove they were deadlocked. The judge sent them back to the jury room for additional consideration of the evidence.

Portee was UMDNJ's director of energy and waste management at

the time of the discharges. The issue of whether liquids with pH outside allowable levels were dumped directly into Newark's sewers was never in dispute. The question was, who authorized them.

Deputy Attorney General Betty Rodriguez insisted to the jury that Portee instructed Vladimir Smolensky to dump the contaminated liquid on Aug. 10 and Arthur Reed to discharge the material three days later. Those two never acted without Portee's approval, she said.

In one instance, the liquid was highly acidic; in the other, highly alkaline. Smolensky and Reed were power plant employees, and each man was called to testify at trial by the prosecution.

The jury found Portee not guilty of the Aug. 10 discharge, while it could not come to a decision on the Aug. 13 incident. In the witness tampering count, the state alleged Portee had instructed Smolensky to tell an investigator he'd used a hand-held meter to measure the liquid's pH count when he had not.

Smolensky, 66, was charged with a count of illegal dumping and was accepted into pretrial intervention in a deal he struck with prosecutors for his cooperation. Portee took the stand to deny ordering him or Reed to discharge anything into the sewer.