

Palm Springs prostitution ring conviction overturned

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(Photo: Riverside County Sheriff's Department)

INDIO – Citing a jury instruction error, a three-judge state appeals court panel unanimously overturned the conviction of a man who co-owned a multi-state prostitution ring based in Palm Springs, the defendant's attorney said Tuesday.

Ofer Moses Lupovitz, 51, was found guilty by an Indio jury in October 2011 of conspiracy and pimping in connection with Elite Entertainment, an escort service that, according to prosecutors, employed as many as 200 women who provided sex for money throughout California, Arizona and Oregon from 2002 to 2006.

Lupovitz was sentenced to nine years in prison and pleaded guilty to 151 counts of money laundering. The jury acquitted him of pandering.

The appeals court's opinion, filed Monday, stated that Lupovitz contended the trial court "committed reversible error by correcting its erroneous jury instruction on the elements of the crime of pimping after defendant had relied on and argued the incorrect jury instruction in his closing argument."

Associate Justice Art McKinster, who wrote the opinion, concluded that the trial court "violated defendant's state and federal constitutional right to a fair trial."

Defense attorney Ronald Richards said he and Lupovitz's other attorney based their closing argument on a jury instruction that required jurors to find that Lupovitz knew 13 named women were prostitutes. Jurors asked Judge David Downing about the instruction, and he told them they only had to find that Lupovitz knew one woman was a prostitute.

"It was unfair, after we argued it, to change the rules," he told City News Service.

Richards said it's rare to get a conviction reversed on that type of error.

He and defense attorney Dana Cole raised the issue when they asked for acquittal and a new trial, both of which Downing denied.

The appeals court's opinion sent the case back for a new trial. Richards said the Riverside County District Attorney's Office must decide retry his client or to dismiss the case.

"They should dismiss the case. It's a waste of resources to retry him after he's served all this time in prison," he said.

Lupovitz was indicted with six other people, three of whom were convicted. The other three remain at large.

Elite was advertised as an on-call escort service. Women would be sent to "client" and would "prostitute themselves, bring money back and give it to the defendant so the defendant could live," Deputy District Attorney Kelly

Sedochenkoff said during the trial.

"This defendant sold one thing -- sex," she said. She showed jurors photos of scantily clad women from Elite's advertisements, saying, "There was no question in the defendant's mind that's what was for sale."

Elite charged \$250 for a girl to show up, then charged anywhere from \$150 to \$4,000 for an array of sex acts. The pimps allegedly kept all the "show" fees and a third of earnings from the hourlong sexual encounters. The women were expected to tip their drivers and appointment secretaries, according to the prosecution.

Richards said Lupovitz ran a legal business, and some of the women violated their independent contractor agreements that said they wouldn't engage in prostitution. There was no evidence of Lupovitz turning women into prostitutes, he said.

"These women decided to do what they were going to do to make a lot of money -- no one forced them to do anything," he said.

There was nothing secret about the business, he said, and Lupovitz never made agreements to sell sex for money. The show fees charged to clients paid

for the service's advertising and overhead, he said.

"Mr. Lupovitz didn't deserve the notoriety he got from this case. He didn't operate the business, he invested in it," he said.

Richards said the appeal was filed about two years ago.

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