

S.F. Cop Acquitted in Exam Scandal

Prosecutors failed to prove their case against an inspector accused of disclosing test's contents.

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Rolling the government failed to prove its case, a federal judge, seated a directed verdict of acquittal on a conviction and charge Wednesday against veteran San Francisco Police Inspector Henry [redacted] accused of leaking contents of the promotions exam in 1998.

The scandal rocked the department last year and prompted Police Chief [redacted] to cancel the promotions exam for 700 officers one day before the test. It ended in dismissal of the single misdemeanor contempt charge after 2 1/2 days of the government's case in the non-jury trial.

U.S. District Judge William Schwarzer indicated the municipality allowed the case to proceed if it had been a

civil case, in which a lower standard of proof is required. The government accused [redacted] of knowingly disobeying a federal secrecy oath he took in 1997 to keep the contents of the examination a secret. U.S. v. [redacted], CR98-0290CA.

Assistant U.S. Attorney Matt Jacobs declined to comment on the judge's decision. Police officials did not return a call for comment or indicate whether Kirk faces any department disciplinary action.

If convicted, [redacted], 46, would have faced six months behind bars and a potential \$100,000 fine.

"His career was on the line," said [redacted]'s attorney, Brian Berson. "This is a highly decorated member of the police department. This would have ruined his career and ruined him financially."

[redacted] was accused of tossing a crumpled note on the desk of Sgt. Arthur Steilni containing the numbers of criminal code sections that were to be covered on the test. Steilni was alleged to have distributed the information to dozens of officers planning to take the test. Steilni allegedly told investigators the didn't know he

was distributing a list of topics that would be on the exam, but when he realized that they would be sent to his bosses, the San Francisco Chronicle reported last year.

Steilni testified Tuesday, sometimes tearfully, that he didn't see who tossed the note on his desk but believed it was Kirk, who was one of two officers passing near his desk at the time.

Berson said the government never produced any such note in court. He said the government's theory was that [redacted] passed the information as inducement to Steilni to allow Kirk's relative, officer Ricci Rodriguez, into Steilni's study group.

"It doesn't make sense," Berson said. "If [redacted] was going to take such a gigantic risk with his career, why not just go to Rodriguez directly?"

Berson and co-counsel Michael Cardoza both have maintained that security for the tests was too lax and that lots of people had access to it.

"The security was terrible. There were all sorts of avenues in test preparation that could have resulted in leaks."