

# COURT'S REVERSAL ON TRAFFICKING MAY CUT DOCTOR'S TERM IN HALF

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**DATE:** October 4, 2007

**PUBLICATION:** Palm Beach Post, The (FL)

**EDITION:** FINAL

**SECTION:** A SECTION

**PAGE:** 1A

**MEMO:** Ran all editions.

Years ago, Denis Deonarine became the first Florida doctor to face a first-degree murder charge in the OxyContin overdose death of a patient. He fended off that most serious charge but was convicted of drug trafficking and relegated to a mandatory quarter-century in prison.

But Wednesday, the 4th District Court of Appeal ruled his crime wasn't trafficking at all. A three-judge panel reversed Deonarine's 2005 conviction of trafficking in more than 28 grams of OxyContin -- among the most serious trafficking charges for that drug -- in a decision that may cut the disgraced doctor's prison time nearly in half.

The panel ruled that, although pills can be added up to a total weight for criminal charging purposes, the tallying should not have been done in that instance.

Deonarine, 62, issued repeat prescriptions for a woman over several months, with time enough in between that the drug amounts should not have been lumped together, the court ruled.

Deonarine is imprisoned at Apalachee Correctional Institution's West Unit in Sneads, with a listed release date of 2029.

Along with the trafficking, a jury also convicted Deonarine of nine other crimes, including dealing in Xanax and Valium, Medicaid fraud and racketeering. Circuit Judge Richard Wennet handed down sentences on those ranging from five to more than 12 years in prison, to be served at the same time.

A jury cleared Deonarine of 75 other felony counts.

The appellate court sent the case back to the trial court to allow entry of the lesser charge of delivery. The immediate impact on Deonarine's sentence was unclear Wednesday. His defense attorney, Richard Lubin, did not return calls for comment.

Deonarine came under intense investigation following the 2001 death of Michael Labzda, a 21-year-old who died from an overdose of OxyContin, the tranquilizer Xanax and heavy drinking.

Investigators seized more than 2,600 patient files from Deonarine's Jupiter office. His office was shut down, his medical license was suspended and ultimately he was charged with actions connected to eight patients, including the murder charge for Labzda.

Prosecutors depicted him as a pill-pushing doctor who got greedy during the last year the practice was open, dispensing pills freely and generating income from repeat office visits from patients seeking drugs.

The Trinidad native has said he is remorseful for disgracing his family and his profession.

"If I made mistakes, they weren't intentional. I am only human," he has said.

Deonarine's case underscored the growing problem of prescription drug abuse and its increasingly harsh penalties.

West Palm Beach defense attorney Gregg Lerman said he doesn't see a wide impact from the appellate decision, but it is a reasonable relief.

Lerman said the mandatory minimum sentences for trafficking violations do not take into account people's personal circumstances, such as becoming addicted to painkillers because of an accident or injury. If a person is caught with 60 pills of OxyContin and doesn't have a prescription for them, he is looking at a mandatory 15 years in prison for trafficking, regardless of whether the person is selling them, he said.

Another criminal defense attorney, Richard Tendler, said the appeals court opinion sends a message to law enforcement agencies: The wide definition of trafficking does have exceptions after all.

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**Illustration:** PHOTO (C)

Denis Deonarine (mug)