

Post-Tribune (IN)

September 4, 2008

Edition: ALL

Section: Local

Page: A3

Doctors' sentences overturned on appeal

David, Randall Chube convictions on drug charges still stand, though.

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A federal **appeals** court has **overturned** the drug sentences -- but not the convictions -- of two former Gary physicians.

The three-judge panel from the 7th U.S. Court of **Appeals** in Chicago affirmed the 2006 criminal convictions of brothers Dr. David Chube Jr., 50, and Dr. Randall Chube, 46, but sent the case back to U.S. District Judge Rudy Lozano for resentencing.

The Chube brothers were convicted in a 10-day trial. They were charged in 33-count indictments with unlawful distribution of controlled substances.

A federal jury acquitted Randall Chube of 32 of the 33 charges, finding him guilty of one count of unlawful distribution, and acquitted his brother, David, of 27 of those counts. The jury convicted David Chube Jr., of four counts of unlawful distribution and two counts of defrauding a [health plan](#).

Lozano sentenced the brothers to the statutory maximum, ordering Randall Chube to serve five years in prison and David Chube Jr., to 15 years and eight months.

Prosecutors argued that the brothers prescribed Oxycontin and other [pain relievers](#) from the Gary and Munster offices of their Great Lakes Family Health Centers to several patients without demonstrating medical necessity.

The **appeals** court found in its Aug. 15 decision that Lozano relied **on** relevant conduct to unfairly increase the Chubes' sentences, enhancing them from a maximum for Randall Chube of six months and a maximum for David Chube of 27 months in prison.

The **appeals** court said Lozano incorrectly extrapolated information obtained from government spreadsheets **on** patient prescription files to "dramatically enhance" the Chubes' sentences.

"These are not defendants who, from a period of 'y' to 'z', were dealing drugs **on** the street to an unclear number of people **on** an unknown number of occasions," the appellate court said in remanding the case.

Prosecutors from the U.S. Attorney in Hammond could not be reached for comment. The brothers have served nearly two years of their original sentences. David Chube Jr., remains in Federal Correctional Institute in Waseca, Minn., while his younger brother is in a federal prison camp in Oxford, Wis.

Memo:

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Record Number: 123BA14E4CBA54D0