

# Judge Orders New Trial For Ex-BP Engineer

KEVIN MCGILL, Associated Press

NEW ORLEANS (AP) — A new trial was ordered Thursday for a former BP engineer convicted of deleting text messages related to the 2010 oil spill in the Gulf of Mexico.

U.S. District Judge Stanwood Duval threw out Kurt Mix's obstruction-of-justice conviction, saying that remarks a jury forewoman overheard outside of the courtroom influenced the verdict.

Prosecutors said Mix, of Katy, Texas, deliberately deleted text messages to and from a supervisor and a BP contractor to stymie a grand jury's investigation of the spill.

The defense had argued that the forewoman in the December trial told a then-deadlocked jury that she had heard statements affirming her view that Mix was guilty. She overheard on an elevator that people in addition to Mix were facing trial.

Prosecutors and defense lawyers agreed that other jurors never heard the substance of the forewoman's information because they stopped her before she shared it. But defense lawyer Joan McPhee argued the forewoman communicated to jurors that she had heard information that "affirmed her view that the correct verdict was guilty."

Prosecutors said there is no evidence the forewoman's information made a difference in the deliberations.

Duval said in his Thursday ruling that the forewoman "polluted the jury with her statements at a critical juncture — that is after the jury had deadlocked." He added that it was clear that the juror herself had failed to follow instructions that she consider only the evidence presented in court.

Mix, 52 at the time of his conviction, had been set for sentencing in August.

The subject matter of the deleted texts in question at trial was the amount of oil flowing from the blown-out well.

Mix's attorneys had argued there was ample evidence that Mix shared information about the flow rate throughout the government investigation and that his deletion of the single string of emails fell far short of what is needed for a conviction. They also said prosecutors failed to prove that Mix knew the information he deleted would be pertinent to a grand jury investigation — an investigation they said he did not know about and that had not yet even begun.

Prosecutors said there was a great deal of evidence and that Mix knew of the

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possibility of a grand jury investigation.

Prosecutors did not immediately respond to emailed requests for comment Thursday night. A spokesman for the U.S. Department of Justice, in an emailed statement, declined comment late Thursday.

In a statement sent by email Thursday night, McPhee said she and others on Mix's defense team "are deeply gratified by Judge Duval's ruling."

"Today's decision is a reminder of how fortunate we are to live in a country where an individual is presumed innocent and entitled to a fair and impartial jury," McPhee wrote.

The explosion on the BP-operated drilling rig Deepwater Horizon about 50 miles off the Louisiana coast in April 2001 killed 11 workers and set off the nation's worst offshore oil disaster.

The disaster led to complicated civil litigation expected to last for years, as well as criminal charges against Mix and others.

BP well site leaders Robert Kaluza and Donald Vidrine have pleaded not guilty to manslaughter charges stemming from the 11 deaths. Former BP executive David Rainey faces a charge of lying to law enforcement agents in the case. Anthony Badalamenti, a former manager for Halliburton Energy Services Inc., BP's cement contractor on the rig, was sentenced to one year of probation for destroying evidence in the aftermath of the spill.

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