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## EMPLOYMENT LAW

### DA Says Case Against Ex-Glock GC 'Beyond Repair' Appeals Court reverses conviction

BY R. ROBIN MCDONALD

The Cobb County, Ga. district attorney said he will not challenge Tuesday's ruling by the Georgia Court of Appeals throwing out the racketeering conviction of the former general counsel and chief operating officer of international gun manufacturer Glock Inc. The DA called the case "beyond the point of repair."

In a move that will free former Glock executive Paul Jannuzzo from prison, DA Vic Reynolds, who took office in January, said he will dismiss the case against Jannuzzo—the second racketeering case associated with Glock that Reynolds has decided not to prosecute after reversals by the state appellate courts this year. Reynolds told the Daily Report Tuesday afternoon, "We are not going to file a motion for reconsideration. I believe the opinion is pretty soundly written....When the case is sent back to us, we will be filing a motion to nol-prosse."

Jannuzzo had been serving a seven-year-prison sentence on the now-tossed convictions.

Reynolds said he concluded that "from the appellate opinion and our review of the facts and the law, I don't believe we can obtain a conviction. I believe it would not only be silly but it would be unethical to go forward on a case in a matter where I am not convinced beyond a reasonable doubt we could convict the defendant."

Reynolds, who was not in office when the case was indicted in 2009, said that

as district attorney, he has a duty "to make sure we make calls on cases that are legally and factually sound. This case has a statute of limitations issue. The appellate court has been adamant in pointing that out....It is not appropriate or proper or legal or ethical to go forward, and I'm not going to."

Late Tuesday, Jannuzzo's attorney, John Da Grosa Smith, said that after learning Reynolds will not attempt to revive the case against Jannuzzo, he filed a notice with the Court of Appeals asking it to send the case back to Cobb "at the earliest possible opportunity."

"We are moving expeditiously to secure Mr. Jannuzzo's prompt and long-awaited release," he said.

Tuesday's opinion by Judge Gary Andrews, with Judges Stephen Dillard and Carla Wong McMillian concurring, held that the statute of limitations on racketeering and theft charges had expired long before the indictment was handed down in 2009.

Jannuzzo was convicted last year of engaging in a racketeering scheme while he was a Glock executive to siphon corporate funds from the Glock Group, which includes at least two Glock companies in the United States.

Dunwoody lawyer Peter Manown, a former Glock senior vice president, had pleaded guilty to theft in return for probation and testified against Jannuzzo at the trial. Manown had originally confessed to Gaston Glock in 2003 that he had stolen funds, much of which he had repaid, from the company.

Jannuzzo also was convicted of stealing from the company a gun that had been assigned to him. That gun was recovered by Atlanta police in Jannuzzo's home in 2007 during a domestic violence incident unrelated to the Cobb charges—four years after he left the company.

Robert Glock, the son of company founder Gaston Glock, told the Daily Report shortly after Jannuzzo was convicted last year that the lawyer had attempted unsuccessfully to return the gun in question shortly after leaving the company. The senior Glock had told his son he would "take care of" the matter and that no further action was needed.

While Jannuzzo was awaiting trial in 2009, he fled to the Netherlands. He was extradited in 2011 from Amsterdam and remained in jail until his Cobb County trial last year.

Jannuzzo, a former New Jersey prosecutor, served as Glock's general counsel and top executive in the U.S. from 1991 to 2003. He also was a visible presence in the national debate over gun control as firearms manufacturers fought restrictions on ownership and sales. He led the industry's defense against a string of product liability suits filed by shooting victims and municipalities.

The state appellate panel held that Glock knew that Jannuzzo had failed to return the gun—a .45-caliber LaFrance Special semi-automatic custom pistol valued at \$2,200—when he left Glock in 2003.

"We find no evidence that could support a finding by the jury that Glock's

actual knowledge of the theft by conversion occurred any later than February or March of 2003—more than six years prior to the June 12, 2009 indictment,” the opinion states. The statute of limitations for theft in Georgia is four years.

The panel also tossed out the racketeering charge, explaining that the five-year statute of limitations for racketeering runs from the last overt act to occur during an alleged conspiracy—in this case the alleged theft of the gun in 2003.

“Evidence showed that the victims (and therefore the state) had actual knowledge of these offenses more than five years prior to the June 12, 2009 indictment, and the state produced no evidence to the contrary....Because the state failed to carry its burden to prove that Jannuzzo was indicted on the theft by conversion or the RICO count within the applicable statutes of limitation, the convictions must be reversed.”

Smith, Jannuzzo’s appellate counsel and his co-counsel during last year’s Cobb County trial, said Tuesday, “I am heartened that the Georgia Court of Appeals reversed a conviction for a crime that never happened.”

Smith said that Jannuzzo’s defense team raised the issue of the statute of limitations numerous times during and after the trial—in motions for a directed verdict at the close of the prosecution’s case, at the close of the defense case, during closing arguments to the jury, in a renewed motion for a directed verdict and a motion for a new trial. All were denied by Cobb County Superior Court Judge LaTain Kell, who presided over the case and allowed the jury to decide the question of whether the charges were too stale to prosecute, Smith said.

Jury foreman Hal Mendel told the Daily Report after the trial that jurors decided that the statute of limitations on the theft of the pistol, which Glock executives said had been on loan to Jannuzzo since 1999, did not begin to run until September 2005, when Glock reported it to the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives among a list of guns missing from the company’s inventory.

Pointing to testimony by Marietta attorney Kevin Connor, who took over temporarily as Glock’s general counsel

immediately after Jannuzzo left, the appellate panel noted that Connor had testified that in February 2003, Jannuzzo had called him to inform him he had a number of guns in his possession, including the LaFrance pistol. Connor gave the list to Robert Glock and said he was directed to take no further action on the matter.

“Contrary to the allegation in the indictment, no evidence showed that Jannuzzo ever denied having possession of the LaFrance pistol after he left his employment with Glock,” the appellate opinion said.

Smith said securing Jannuzzo’s freedom should not be viewed as the release of a felon on a legal technicality. The crimes of which Jannuzzo were accused “never happened,” he said. Instead, he continued, “It’s our perspective from the inception that this was a case that was fueled by and pressed by a corporation.”

Manown, the Dunwoody lawyer who pleaded guilty to theft, had testified that after Jannuzzo quit, Gaston Glock “was hell bent for leather to get Mr. Jannuzzo.”

According to a proffer Manown gave to Cobb prosecutors in 2008, Jannuzzo arrived at Glock’s home in Vinings the day he resigned “with a stack of files... and threw the things down...and basically said, ‘I quit, you son-of-a-bitch.’” Jannuzzo then demanded \$4 million, adding that one of Glock’s favorite employees was “cleaning out her office because she is quitting, too.”

That employee, Manown said, was Monika Berezky, Glock’s human resources director, who later married Jannuzzo.

Manown added that Gaston Glock apparently had been “getting overly familiar” with Jannuzzo’s girlfriend. “And my guess is that Jannuzzo...just thought he had enough of this dirty old man, and I’m out of here....I’m sure there was more to it, but I think that’s what had pushed him over the edge.”

Manown said he never knew what was contained in the files that Jannuzzo slammed down on Glock’s kitchen table because Jannuzzo took them when he left.

“I guess it’s fair to say that Jannuzzo, and maybe I to some extent, thought we knew where some skeletons of Glock’s were, and Jannuzzo was going to use

that to quit on his terms, which obviously didn’t happen,” he said.

In an email, Monika Jannuzzo told the Daily Report Tuesday, “I am extremely grateful” to the appeals court “and I am looking forward to having Paul home soon. I am very happy and thankful for this day.”

Attorney Richard Feldman, president of the national Independent Firearm Owners Association and a law school classmate of Jannuzzo’s who has closely followed the case, told the Daily Report Tuesday, “You didn’t have to be a first-year law student to read the facts of the case and conclude it was outside the statute of limitations....This was a matter of law, not a fact question for the jury. It was a matter for the judge. ...He should just have applied the law.”

The Jannuzzo case is the second racketeering case linked to Glock to be reversed by a Georgia appellate court on grounds that the statute of limitations had expired long before the case was indicted.

In March, Reynolds dismissed the three-year-old racketeering indictment of former Assistant U.S. Attorney James Harper, Atlanta attorney Jeff Pombert and Marietta resident Jerry Chapman after the Supreme Court of Georgia reversed and remanded the case. The justices ruled that the state’s elder crimes statute could not be employed to artificially extend the statute of limitations from four to 15 years for the crimes with which the three men had been charged because company shareholder Gaston Glock was older than 65.

The ruling reversed holdings by Judge Kell, who has presided over both the Jannuzzo and Harper cases. Both cases were brought by former DA Pat Head, who retired last year rather than seek reelection. Former Assistant District Attorney John Butters, who left the office for private practice after Reynolds was sworn in, was Cobb County’s lead prosecutor. He could not be reached for comment.