

WXPost  
**Agnew Witness's**  
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**Jail Term Upset**

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The Fourth U. S. Circuit Court of Appeals in Richmond overturned yesterday the 18-month prison sentence that was imposed last year on I. H. (Bud) Hammerman II, the prominent Baltimore mortgage banker who played a key role as a government witness in the investigation of former Vice President Spiro T. Agnew.

In a narrowly defined decision that was based largely on what it described as a prosecutor's "unfulfillable" pledge to Hammerman's attorney, the court returned the case to the U. S. District Court in Baltimore with instructions that Hammerman be allowed to withdraw his guilty plea to a federal tax charge that led to the prison sentence.



**I. H. HAMMERMAN II**  
...to plead again

Hammerman has remained free pending the outcome of his appeal of the prison sentence.

See HAMMERMAN, A24, Col. 1

**HAMMERMAN, From A1**  
tence, which was imposed by a three-judge panel against the recommendation of George Beall, then the U. S. attorney for Maryland. Hammerman's lawyer, Sidney Sachs, at first said yesterday that the guilty plea would be withdrawn, but later said he was not certain what he would recommend to Hammerman.

Jervis S. Finney, Beall's successor as U. S. attorney, said he was reviewing the decision and would have no immediate comment.

Hammerman, a longtime friend of Agnew, was one of four key witnesses who provided highly damaging evidence against Agnew to federal prosecutors, leading to Agnew's resignation and plea of "no contest" to a charge of federal income tax evasion in October, 1973. Hammerman told the prosecutors that he participated with Agnew in a scheme to obtain cash kickbacks from consulting engineers in Maryland, keeping a percentage of the kickbacks for himself.

As part of a plea bargaining arrangement with the prosecutors, Hammerman agreed to plead guilty to a charge of obstructing enforcement of federal tax laws. The prosecutors, in turn, agreed not to charge Hammerman with additional crimes and to make the extent of his cooperation in the Agnew investigation known to the sentencing judge.

Beall said yesterday that because Agnew, as a result of his own plea bargaining with the prosecutors, did not receive a prison term, it was decided later to modify the original agreement with Hammerman to include a recommendation that Hammerman and another key witness, Alan I. Green, also not be imprisoned.

Despite Beall's recommendation, a special three-judge panel sentenced Hammerman to 18 months in jail and Green to one year in jail and fined both men \$5,000. Green did not appeal the sentence and served several

months in prison. He is now free.

The appeals court decision yesterday was based largely on remarks made following a presentence conference with judges on Oct. 11, 1974, by an assistant prosecutor who was later identified as Assistant U. S. Attorney Barnet D. Skolnik, who has led both the Agnew probe and the current investigation of Maryland Gov. Marvin Mandel.

According to the decision, following that conference Skolnik told Sachs that the Baltimore judges appeared ready to accept a recommendation of no imprisonment, "that the court had given the 'signal' which counsel had been seeking."

Ruling that these comments "misled" Hammerman, the appeals court judges said, "We view the prosecutor's prediction as likely to inculcate belief and reliance and therefore (as) an essential element of the plea bargain. That the prosecutor lacked power to implement the prediction made it an

'unlawful' promise. . . It does not matter that the prediction or promise was made in good faith; what matters is it was probably relied on (by Hammerman), was not fulfilled and was unfulfillable."

The judges added that Skolnik's comments "formed a significant part of the inducement for a guilty plea," and that this "unkept bargain which has induced a guilty plea is grounds for relief."

It was unclear yesterday what effect the decision will have on future plea bargaining attempts, particularly in connection with the ongoing federal investigation of political corruption in Maryland. On Dec. 1, a new federal judicial rule is to go into effect that will give criminal defendants the right to withdraw a guilty plea made as part of a plea bargaining deal if the judge in the case does not accept the terms of the deal, for example an agreed-upon sentence.

The decision yesterday, in effect, applied the essential

element of this new rule to the Hammerman case.

When Hammerman and Green were sentenced, many defense lawyers felt the decision would make it more difficult for federal prosecutors to gain the cooperation of witnesses in return for promises to recommend leniency in sentencing. One lawyer suggested yesterday that the new appeals court decision might now make the prosecutors more reluctant to strike plea bargains.