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Fen-phen attorneys sentenced to decades in prison

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COVINGTON — Two disbarred lawyers convicted of taking millions of dollars from their former clients are likely to spend much of their remaining lives in a federal prison.

U.S. District Judge Danny Reeves sentenced William Gallion, 58, to 25 years in prison and Shirley Cunningham Jr., 54, to 20 years in prison on Monday after a nearly daylong sentencing hearing in federal court in Covington.

Both sentences were less than what prosecutors had recommended for the two men, who were convicted in April of taking about \$94 million from a \$200 million fen-phen settlement that should have gone to their former clients in a 2001 Boone Circuit Court case.

The men said Monday they would appeal their convictions.

Pat Cunningham, Shirley Cunningham's wife, said Monday that her husband has so little money that he probably will have to ask for a court-appointed lawyer to pursue his appeal. "I still believe that he is innocent," Pat Cunningham said.

In addition to the prison sentence, Reeves ordered the two men to pay \$127 million in restitution to the victims and to forfeit \$30 million to the federal government.

Defense attorneys said it's unlikely that Gallion and Cunningham's former clients will receive \$127 million. The defense will probably challenge the restitution figure because some of the 440 clients whom Gallion, Cunningham and a third attorney, Melbourne Mills Jr., represented received more money than they were supposed to receive, attorneys claim. Those clients are not entitled to any additional money through restitution, they said.

Angela Ford, a Lexington attorney who has represented 420 former fen-phen clients in a separate civil lawsuit, said the former clients would be fortunate if they could recover even half of the \$127 million.

Ford said in court Monday that it has been difficult to trace the two men's assets. Gallion and Cunningham have a series of limited-liability corporations and foundations.

Dozens of former clients, relatives and friends of Gallion and Cunningham attended the hearing. Many of the men's former clients said after Monday's sentencing that they were relieved that justice had finally been served.

The trial in April was the second criminal trial for the two men. A federal judge declared a mistrial in July 2008 after a jury deliberated for eight days and could not come to a decision. That same jury acquitted Mills.

W.L. Carter, one of Gallion and Cunningham's former clients, said he thought Gallion's sentence was justified. The two-decade sentence will make any lawyer stop and think before taking money from a client, he said.

"I am satisfied," Carter said. "Prison life is going to be hard on him."

Carter and other victims testified earlier Monday about how Gallion's and Cunningham's theft had affected their lives.

Jo Ann Albey of Louisville said money the two men took could have helped her pay medical bills. Those bills are caused from heart problems that she suffered as a result of taking the diet drug fen-phen, she said.

Albey said she received about \$24,000 from the settlement. While she was in the hospital recovering from a heart operation, her insurance company dropped her, she said.

"We are living month to month," Albey said. "My credit cards are maxed" because of medical bills.

Carter told the judge that after he was given his settlement check, the attorneys told him that if he told anyone that he had gotten a settlement or the amount of the settlement, he could be fined or possibly go to jail.

During the trial, prosecutors alleged that the lawyers directed their staff to tell the clients not to tell anyone about the settlement as a way to cover up the theft.

On his way home from his lawyer's office, Carter said, he got so nervous that he had to pull over to the side of the road. "They have lived the high life," Carter said. "At our expense."

Meanwhile, defense lawyers argued that neither Gallion nor Cunningham have previous criminal histories and that both have contributed much to the community.

Gallion was a respected attorney who represented the University of Kentucky Medical Center and its physicians for 18 years. Jennifer Blakeley, the head of risk management for UK Medical Center, told Reeves that it was largely because of Gallion that a new system is now in place at the hospital that allows for more reporting of medical mistakes and problems. Gallion "changed the culture" at UK, Blakeley said.

Bill Johnson, a Frankfort attorney, said Cunningham had always been supportive of the community, often representing people at no cost.

Stephen Dobson, one of Cunningham's attorneys, told Reeves that Cunningham had started a foundation, which built a gym in Georgetown and allowed local youth leagues to play there. Cunningham has supported various other foundations and has been a father figure to dozens of athletes, Dobson said.

Federal prosecutors countered that the two men knowingly defrauded their clients and lied to the original judge on the fen-phen case, the Kentucky Bar Association and others about what had happened to the original \$200 million settlement. Prosecutors had pushed for a 35-year sentence for Gallion and a 30-year sentence for Cunningham.

Reeves noted that it was Cunningham's service to the community that persuaded him to go with a sentence lighter than the prosecution's recommendation. However, "Mr. Cunningham knew what he was doing was wrong," Reeves said. "He could have stopped this much earlier."

Gallion received a lengthier sentence because he played more of a leadership role in the scheme, Reeves said.

Reeves said that neither Cunningham nor Gallion has shown a "grain of remorse."

Both men asked to be released on bond pending their appeal, but Reeves denied the request. Both men also have requested to be placed in a minimum-security prison near Central Kentucky.

The men will have 10 days to file an appeal.

