# State court: Harold Fish no longer convicted felon

By LARRY HENDRICKS
Assistant City Editor | Posted: Tuesday, December 1, 2009 11:00 pm

Harold A. Fish, 62, convicted of second-degree murder in a Coconino County trailside shooting death of Grant Kuenzli, is no longer a convicted felon.

The Arizona Supreme Court Tuesday declined a request by Attorney General Terry Goddard to review the state appellate court's overturning of Fish's conviction.

"He's now a free man," said Fish's Flagstaff-based attorney Lee Phillips. "He's no longer convicted of an offense, and justice has prevailed."

Fish was convicted in June 2006 for the May 2004 shooting death of Kuenzli on a National Forest trail in the far southeast corner of the county. He argued at trial that he fired in self-defense after Kuenzli came at him aggressively after firing a warning shot at two dogs in Kuenzli's care.

He hit Kuenzli three times in the chest and two wounds were fatal. Kuenzli did not have a weapon in his hands at the time of the shooting.

The prosecution argued that Fish overreacted and took a man's life when other, less lethal options were available. A forensic report suggested that Kuenzli was in a defensive position when he was shot.

In June, the appellate court ruled that the jury was not instructed properly as to what constitutes "unlawful physical force." The court also decided the jury should have heard evidence that Kuenzli was known to act violently when confronted about dogs in his care.

After the appellate court's decision, Coconino County Attorney David Rozema said his office would not seek to retry Fish and did not oppose Fish's release as the case made its way through the courts.

Fueling Rozema's decision was the appellate court decision and Gov. Jan Brewer signing a law in July that made a new self-defense law apply retroactively to Fish. The new law shifted the burden of proof of having acted in self-defense from defendant to the prosecution.

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