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High court sides with ex-Enron CEO Skilling

By MARK SHERMAN

The Associated Press

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WASHINGTON -- The Supreme Court ruled Thursday that prosecutors erred in using a certain federal fraud statute to convict former Enron CEO Jeffrey Skilling, but left it to a lower appeals court to determine whether his conviction should be overturned.

The justices were unanimous in imposing limits on the use of the "honest services" fraud law that has been a favorite of white-collar crime prosecutors.

The law has been criticized as vague, subjecting people to prosecution for mistakes and minor transgressions in the business and political worlds. Skilling asked that it be struck down as unconstitutional.

But the justices, in an opinion by Justice Ruth Bader Ginsburg, said prosecutors may continue to seek honest services fraud convictions in cases where they put forward evidence that defendants accepted bribes or kickbacks.

"Because Skilling's misconduct entailed no bribe or kickback," Ginsburg said, "he did not conspire to commit honest-services fraud under our confined construction" of the law.

Thursday's decision does not necessarily mean that any of the 19 counts against Skilling will be thrown out, Ginsburg said. At the same time, by a 6-3 vote, the court rejected Skilling's claim that he did not get a fair trial in Houston because of the harsh publicity surrounding the case in Enron's hometown.

The new limits on honest services prosecutions also will lead to new a hearing for former newspaper magnate Conrad Black and could mean the end of federal prosecutors' case against former Alaska lawmaker Bruce Weyhrauch.

The government argues that both Skilling's and Black's convictions should be sustained, even with the court's ruling Thursday.

Lawyers for the two men say that the entire case against them should be thrown out.

The ongoing prosecution of former Illinois Gov. Rod Blagojevich and the convictions of former Alabama Gov. Don Siegelman and ex-HealthSouth CEO Richard Scrushy also could be affected.

Skilling was convicted in 2006 on 19 counts of conspiracy, securities fraud, insider trading and lying to auditors for his role in the downfall of the once-mighty Houston-based energy giant. The company collapsed into bankruptcy in 2001 under the weight of years of illicit business deals and accounting tricks. Skilling is serving a sentence of more than 24 years at a minimum security prison outside Denver.

Justices Sonia Sotomayor, Stephen Breyer and John Paul Stevens also would have held that Skilling did not get a fair trial in a case in which "passions ran extremely high," Sotomayor said in her dissent.

Black, serving a 6 1/2-year prison term, and two other former executives were convicted of depriving the Hollinger International media empire of their faithful services as corporate officers. The company once owned the Chicago Sun-Times, the Daily Telegraph of London, the Jerusalem Post and hundreds of community papers across the United States and Canada.

Central to the case is \$5.5 million that the defendants say were management fees they were owed and were trying to collect in such a way that they would not have to pay Canadian income tax. The government says the money belonged to the company's shareholders.

Weyhrauch wants charges against him dropped. Prosecutors allege that he failed to disclose he was in job negotiations with an oil-field operations company at the same time the state legislature was also considering an oil bill. But Weyhrauch says disclosure was not required by Alaska law. He wants the court to bar a federal honest services fraud prosecution without an allegation of a violation of state law as well.