NJ programmer freed as NY court orders acquittal

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Sergey Aleynikov exits Manhattan federal court Friday, Feb. 17, 2012, in New York, The unusually speedy mandate from the 2nd U.S. Circuit Court of Appeals in Manhattan will result in freedom for Aleynikov, who was sentenced in March to more than eight years in prison. He was convicted in December 2010 of stealing trade secrets and transporting stolen property in interstate and foreign commerce. (AP Photo/Louis Lanzano)

(AP) -- A smiling former Goldman Sachs computer programmer was freed from prison Friday after a surprise ruling from a federal appeals court reversed his conviction on charges he stole computer code.

"Justice occasionally works," declared the beaming programmer, Sergey

Aleynikov.

He said he "just jumped all over the place" at 6 a.m., the moment he read and repeatedly reread an email from his lawyer informing him that the 2nd U.S. Circuit Court of Appeals in Manhattan had reversed his conviction. The words were, he said, "`We won!'"

The reversal came less than a day after defense lawyer Kevin Marino told a three-judge panel that Aleynikov was wrongly convicted. The 42-year-old North Caldwell, N.J., man had already served a year of a more-than-eight-year prison sentence after a jury convicted him in December 2010 of stealing trade secrets and transporting stolen property in interstate and foreign commerce.

Aleynikov said outside court that he looked forward to seeing his family, including his 8-, 6- and 3-year-old daughters.

"This is such big news to me that I don't have time to think about what will happen tomorrow," said Aleynikov, dressed in a gray sweat suit and white sneakers. "Today, it's a victory."

His lawyer said: "I've never felt better in my life."

The highly unusual immediate dismissal of a conviction by the appeals court came in a case that tested the boundaries of what can be considered a crime as companies seek to protect their intellectual property from competitors.

Aleynikov has been in prison since he was sentenced in March. A three-judge appeals panel heard arguments Thursday, but the judges gave no indication they would reverse the lower court hours later with a terse, one-paragraph order. The 2nd Circuit said it would issue a written ruling "in due course" to explain its decision.

Marino said Aleynikov's immediate reaction when he spoke to him early Friday was: "There is justice in the world."

"It's justice because Sergey Aleynikov did not commit either of the crimes with which he was charged," Marino said. "The government's attempt to stretch this criminal federal statute beyond all recognition resulted in a grave injustice that put Sergey Aleynikov in prison for a year."

In oral arguments before the 2nd Circuit, Marino called it "ridiculous" and "preposterous" that his client was facing eight years in prison because he was found to have information that was not a product that Goldman Sachs sold in interstate and foreign commerce. A prosecutor had asked the court to uphold the conviction, saying protection of trade secrets was the only way companies could retain their technological advantages.

Prosecutors declined to comment Friday, though they agreed during a court appearance that Aleynikov could be released on his own recognizance without conditions while everyone awaited the full appeals court opinion, which was unlikely to be released for weeks.

Aleynikov, a naturalized U.S. citizen who emigrated from Russia in 1990, was first arrested in July 2009 as he returned from a trip to Chicago to the offices of his new employer, Teza Technologies LLC.

Prosecutors accused him of taking trade secrets from Goldman Sachs Group Inc. in 2008 to help his new company gain an advantage with high-speed trading. He made $400,000 a year as a vice president at Goldman Sachs. His move to Teza enabled him to be paid $300,000 annually, with a $700,000 bonus in his first year and a revenue-sharing plan that would have added $150,000 annually.

During a two-week trial, Marino told jurors that his client was merely trying to copy parts of the company's software that were taken from public software codes. He acknowledged that Aleynikov had violated the company's confidentiality agreements but said that was a civil matter.

The trial brought into focus sophisticated computer programs that use mathematical formulas to execute scores of trades in short periods of time after evaluating moment-to-moment developments in the markets.

The government said Goldman Sachs makes millions of dollars a year in profits from high-frequency trading and carries a competitive advantage over rivals because of the speed of its computer programs.

At sentencing, Aleynikov said he very much regretted "the foolish decision to download information before I left Goldman Sachs," though he added that only some of the information he took was proprietary to the company.

He said he "never meant to cause Goldman any harm, and I haven't acted with malice to anyone at the bank."

After he was freed, Aleynikov said he did not know what he would do next, though he noted that he believed his skills were up to date. He said he did not have access to a computer in the prison but continued to write computer programs "in my head."