

Felonies restored in pier collapse

Three people died when a nightclub plunged into the Delaware. The felony charges had been dropped.

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The owner and operator of Pier 34 South along the Delaware River must face felony charges in the fatal collapse that killed three young women at a nightclub five years ago, the Pennsylvania Supreme Court ruled yesterday.

The justices, who reinstated a felony charge of risking a catastrophe and a companion felony charge of conspiracy, ordered that Michael Asbell, 63, the pier's owner, and Eli Karetny, 64, the operator of Heat nightclub, face a jury in Common Pleas Court.

The charges - which could carry a maximum prison term of 14 years - were dismissed in 2002 by a Philadelphia judge.

In the strongly worded 28-page decision, the justices also ruled that evidence from prosecutors indicated that Asbell and Karetny disregarded warnings that collapse was imminent and instead opened the property for business.

In the 6-0 majority opinion, Justice Ronald D. Castille wrote that prosecutors had "substantial evidence" that on the night of the collapse, May 18, 2000, Asbell and Karetny "engaged in what amounted to a literal coverup: They ordered that the ever-growing crack in the floor of their banquet building - tell-tale evidence of the very real calamity awaiting any person who ventured onto the premises - be concealed."

Three New Jersey State Aquarium employees - DeAnn White, 25; Monica Rodriguez, 21; and Jean Marie Ferraro, 27 - suffered head injuries and drowned when the century-old pier pitched into the chilly Delaware River.

Last year, the families of the women and 40 others who were injured reached a \$29.6 million settlement with Asbell, Karetny and other defendants named in dozens of lawsuits.

But even after the large settlement, members of the White, Rodriguez and Ferraro families have said their focus was criminal charges against the pair.

When the case was argued before the state Supreme Court in May, at least 10 family members of the victims listened intently from the front row of the Harrisburg courtroom.

"All three families have been emotionally invested in the outcome of this appeal and have gallantly followed every small and large step in the process," said lawyer [Thomas R. Kline](#), who represented the women's families in the lawsuits. "These are families who have been committed far and beyond the civil litigation. They have been doggedly determined to see Mr. Asbell and Mr. Karetny stand trial for the felonies."

District Attorney Lynne M. Abraham, whose office pursued the appeal first to Superior Court and then to the state Supreme Court, said yesterday that "it was important for us to vindicate the rights of the victims in this case."

She said prosecutors believed Asbell and Karetny "were aware the pier was being undermined, the pier was shifting, the pier was collapsing."

An expert in pier construction has testified that he warned Asbell and Karetny about the weakening structure just hours before the collapse and that he predicted that the end of the pier would topple "like dominoes" that night or the next morning.

In 2002, Common Pleas Court Judge Benjamin Lerner threw out the felony charge of risking a catastrophe. That law, Lerner said, explicitly required the use of fire, explosives, or other dangerous means.

The Supreme Court justices disagreed, ruling that continuing to advertise, promote and open the pier to the public constituted the employment of dangerous means.

Lerner's ruling left intact a slew of misdemeanor charges: three counts of involuntary manslaughter, failure to prevent a catastrophe, and 43 counts of reckless endangerment - each representing nightclub patrons, workers and rescuers who were injured. Those charges remain in place.

Asbell's attorney, Thomas Bergstrom, said yesterday that his client had no warning of pending collapse.

"We are disappointed. This was purely a legal question, not a factual question. It was not a matter of trying to duck factual responsibility," Bergstrom said. "I think we have to get our mind set to finally try this case."

Karetny's attorney could not be reached for comment last night.

Abraham said a trial date could be set next month at a Common Pleas Court hearing.