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Ex-Locke Lord Atty Says Perjury Demands New Crypto Trial

By **Stewart Bishop**

Law360 (April 25, 2022, 9:39 PM EDT) -- Attorneys for convicted former Locke Lord LLP partner Mark Scott on Monday urged a Manhattan federal judge to order a new trial over money laundering claims tied to the global OneCoin cryptocurrency scam, saying false testimony from the key cooperating witness demands it.

Scott was convicted in 2019 of aiding "CryptoQueen" Ruja Ignatova and others to **launder** nearly \$400 million in OneCoin investors' money by creating investment entities, referred to as the Fenero funds, that funneled capital away from Bulgaria-based OneCoin and back to Ignatova and her associates.


Ignatova's brother, Konstantin Ignatov, has become the focus of post-trial proceedings over his lies on the witness stand. Scott's attorneys say he falsely claimed that he disposed of a OneCoin laptop in a Las Vegas trash can when in fact it was scurried outside of the U.S., where any potentially exculpatory evidence was lost.

During an hours-long, afternoon hearing before U.S. District Judge Edgardo Ramos in Manhattan, Arlo Devlin-Brown of Covington & Burling LLP, an attorney for Scott, argued that when a witness perjures himself and the government knows the testimony at the time was false, a grant of a new trial is "virtually automatic."

"The evidence is quite clear ... that this was false testimony on purpose by Mr. Konstantin and not a mistake," Devlin-Brown said.

In documents unsealed Sept. 24, the government confirmed that Ignatov admitted to falsely testifying he threw out his laptop before being arrested. The government also said an investigator with the prosecution team had been tipped off about his perjury months earlier but "regrettably forgot" to pass on that information.

In addition to the laptop issue, Scott's attorneys say evidence shows Ignatov lied about setting up a July 2016 meeting between Scott, Ignatova and Irina Dilkinska — a Bulgarian woman allegedly in charge of overseeing OneCoin's money laundering operations — in Sofia, Bulgaria.

Devlin-Brown cited the Second Circuit's 1991 decision in **U.S. v. Wallach** , in which it outlined standards of review in cases of perjured testimony.

On the one hand, if the government knew or should have known of the perjury, a conviction must be tossed if there's any "reasonable likelihood" that such testimony would affect a jury's verdict. If the government knowingly permitted false testimony, a retrial is necessary.

But, if prosecutors were unaware of the perjury, according to the circuit, a new trial is called for only if the testimony was material and a judge concludes that but for the perjured testimony, a defendant would most likely not have been convicted.

"Here, the court cannot exclude the possibility that the jury was not impacted by [Ignatov's] perjury," Devlin-Brown told Judge Ramos.

In addition to ordering a new trial, the defense argues that Judge Ramos should conduct an

evidentiary hearing relating to the government's alleged failure to comply with its disclosure obligations, which may necessitate the dismissal of the indictment.

Assistant U.S. Attorney Nicholas Folly argued that the false testimony was not material. He said the government clearly proved at trial that Scott knew the money he was handling originated from unlawful activity.

The government contends that the perjured testimony was minor in scope and had little to do with Scott's hand in the charged conspiracies.

Folly said other, independent evidence introduced at trial was more than enough to demonstrate Scott's guilt.

"All of this independent evidence ... shows that Scott's claim fails on the merits because he cannot show this false testimony affected the outcome of the trial," Folly said.

Judge Ramos reserved decision.

Scott left BigLaw behind in 2015 and was disbarred in 2020, shortly after being convicted on money laundering and bank fraud charges. Locke Lord says Scott's conduct occurred after he left the firm and that it was unaware of it.

He has yet to be sentenced.

The government is represented by Christopher J. DiMase, Nicholas Folly and Michael McGinnis of the U.S. Attorney's Office for the Southern District of New York, and Julieta Veronica Lozano of the New York County District Attorney's Office.

Scott is represented by Arlo Devlin-Brown and Alan Mark Vinegrad of Covington & Burling LLP, David M. Garvin of David M. Garvin PA, and James Nobles of Nobles & DeCarolis.

The case is U.S. v. Scott et al., case number 1:17-cr-00630, in the U.S. District Court for the Southern District of New York.

--Additional reporting by Rachel Scharf and Pete Brush. Editing by Adam LoBelia.