

# Appellate judges send Atlantic County gun case back to judge

By LYNDA COHEN, Staff Writer | Posted: Tuesday, April 14, 2015 11:41 am

The lawyer for a Cape May County woman sentenced on a gun charge is hoping a decision by an appellate panel could get his client into a diversionary program or probation.

Such a ruling could have wider ramifications for similar New Jersey gun cases.

## Those already in prison on gun charges may benefit from Graves Act clarification

The clarification that allowed Shaneen Allen to avoid prosecution could reach all the way into prison.

Bonnie Oliver Allamong, 52, of North Cape May in Lower Township, pleaded guilty last year to taking her legally owned gun to her sister's Galloway Township home during a domestic dispute between the woman and her boyfriend.

Allamong said she did not think the gun was loaded, but police who arrived at the scene found a bullet in the chamber. It is illegal for most people to carry guns in New Jersey.

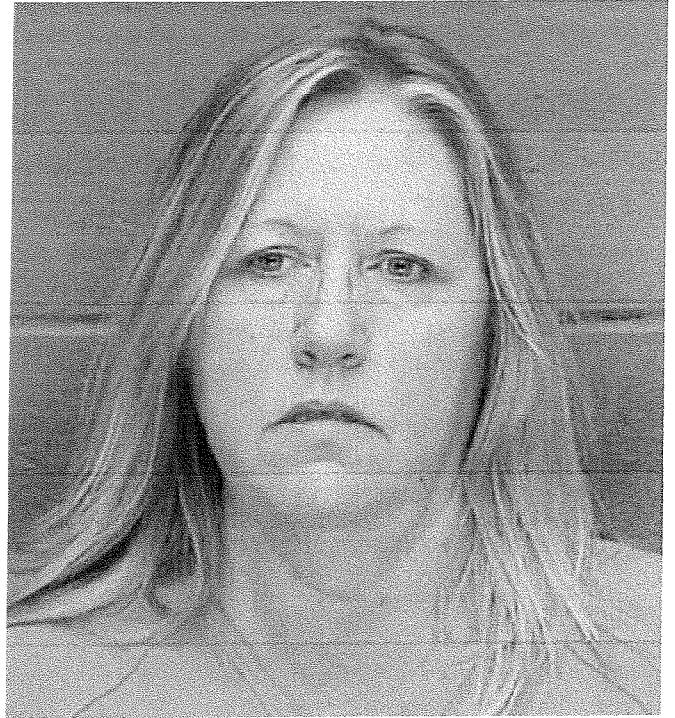
Under the plea agreement, Allamong was to be sentenced to three years in prison with one year of parole ineligibility. But Superior Court Judge Michael Donio instead gave the woman 275 days of day-reporting to the Atlantic County jail at her Aug. 19 sentencing.

Prosecutor Jim McClain appealed, saying the sentence was illegal.

An appellate panel Tuesday sent the case back to the judge. But in addition to getting a new sentence, that also could allow for a reopening of the case, and a more thorough look at how such cases have been handled by the Prosecutor's Office.

Defense attorney Michael Schreiber said he hopes he will be able to get pretrial intervention for his client. PTI allows a defendant to avoid prosecution.

Because it was a second-degree crime, Schreiber couldn't request PTI without the prosecutor's consent, which McClain was not giving in these cases at the time.



Allamong

Bonnie Oliver Allamong

But since then, the state attorney general has issued a clarification on prosecutorial discretion in applying the Graves Act, which requires mandatory minimum prison sentences in certain gun cases. The directive came after the law garnered national attention when a Philadelphia woman was arrested for bringing her legally owned gun into New Jersey. Shaneen Allen claimed she did not know her permit to carry did not cross state lines.

McClain initially denied her application for PTI but reversed that decision after the attorney general issued his clarification. Allen was able to leave the PTI program April 2, when Gov. Chris Christie granted her a pardon.

## **Gov. Christie pardons Philly mom in Atlantic County gun case**

The Philadelphia mother whose gun arrest brought national attention on New Jersey's gun laws has received a pardon from the governor.

Tuesday's decision could also force the prosecutor to more fully open his decisions on Graves Act waivers.

Donio, the judge for Allamong, previously ordered those decisions be made available to defense attorneys in these cases, but the prosecutor turned over only the letters that granted or denied those decisions, with little to no information about the cases themselves, Schreiber said.

In their decision released Tuesday, the appellate judges said opening the files should mean opening the entire case and what the circumstances were in each.

That could be done in an evidentiary hearing, if Donio grants it in this case.

A sentencing hearing is set for May 29, Schreiber said. But he is hoping the case can be resolved another way.

Schreiber said he also is considering applying for a pardon for another client, similar to the one granted Allen.

Justin Brey, 26, had his legal gun with him while working construction in Pennsylvania in April 2013, when his friends picked him up to take him to a surprise location for his bachelor party. When he wound up in Atlantic City, Brey realized he had his gun on him and put it in a drawer in the Caesars Atlantic City hotel room where they were staying.

He was arrested when he went to retrieve the gun.

Brey pleaded guilty to a recommended sentence of three years with one year of parole ineligibility. Donio allowed for a waiver and gave Brey two years' probation. Schreiber has sent Brey a letter to see whether he wants an application for a pardon.

Christie's office has not replied to several requests by The Press of Atlantic City for his stance on

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similar cases in the county.

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