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Astor's Son Can Stay Out of Prison While He Appeals (Update1)

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(Adds comment from Marshall's lawyers in third paragraph.)

By Karen Freifeld

Jan. 11 (Bloomberg) -- Anthony Marshall, sentenced to one to three years in prison for defrauding his mother, Brooke Astor, the late New York philanthropist and socialite, won the right to remain free on bail while he appeals his conviction.

Marshall's bond was set at \$500,000 today by Justice Helen Freedman at the appellate division of New York Supreme Court in Manhattan.

"We are pleased that the judge has granted our application and that Mr. Marshall will continue at liberty," his lawyers, Kenneth E. Warner and John R. Cuti, said in an e-mailed statement. "His appeal is very strong and we will pursue it on all issues."

A jury found Marshall, 85, guilty on Oct. 8 of defrauding the philanthropist by having her change her will when she was incompetent to do so, giving himself millions of dollars. Co-defendant and lawyer Francis X. Morrissey, convicted of forging Astor's name on an amendment to her will, was also sentenced to one to three years.

Both men were ordered at their Dec. 21 sentencing to surrender to prison officials on Jan. 19.

The Manhattan District Attorney's office opposed Marshall's request to stay out of prison pending his appeal.

"To grant defendant Marshall on bail pending appeal, in a case where he has no reasonable chance of succeeding on appeal, would be to defeat the purpose of the mandatory sentencing scheme which was enacted to assure equality of treatment between white collar criminals and street criminals," prosecutor Joel J. Seidemann wrote in court papers.

Astor, who suffered from Alzheimer's disease, died in 2007 at age 105.

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