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NOMINATIONS**

December 22, 2009

## Brooke Astor's Son Is Sentenced to Prison

By **JAMES BARRON**

The 85-year-old son of Brooke Astor, the longtime philanthropist and beloved doyenne of New York society, was sentenced Monday to one to three years in prison for siphoning millions from her before she died.

It was a finale — some would say a sobering, Shakespearean finale — to a case that had mushroomed from a family feud over her care into a five-month trial for “grand theft Astor,” as one prosecutor described it on Monday, “a six-year crime spree involving a series of larcenies.”

Lawyers for her son, Anthony D. Marshall, painted a different picture in State Supreme Court in Manhattan, that of a proud Marine who had seen combat at Iwo Jima; a distinguished former C.I.A. employee; a respected former diplomat; and a Tony Award-winning Broadway producer.

But given a chance to explain himself, or perhaps to give voice to his relationship with his mother, Mr. Marshall decided to pass, just as he had at his trial, when he did not testify.

On Monday, when Justice A. Kirke Bartley Jr. asked Mr. Marshall if he had anything to say before the sentence was announced, Mr. Marshall rose with difficulty at the defense table. Justice Bartley told him to sit down and had a court officer give him a hand-held microphone so he would not have to lean into the one on the table.

But Mr. Marshall said only 11 words: “I have nothing to add to what my attorneys have said.”

At times, the five-month trial had seemed to be as much about Mrs. Astor's last years as it was about the crimes Mr. Marshall was accused of. But the sentencing hearing focused squarely on Mr. Marshall, and his co-defendant, Francis X. Morrissey Jr., 67.

“It is a paradox to me that such abundance has led to such incredible sadness,” Justice Bartley said. Of Mrs. Astor, the judge said: “What would she say if she were here? Would she blanch at the spectacle?”

Mr. Marshall's son Philip — whose anger at his father became public in 2006 when he filed a guardianship petition asserting that his father had neglected Mrs. Astor's care — said in an e-mail message that he had no comment on the sentence.

It was the minimum sentence allowed. Justice Bartley gave Mr. Marshall 30 days to report to jail, but he could remain free on bail while appealing the conviction.

For Mr. Marshall, the sentence covered the most serious of the 14 counts on which he was convicted: first-

degree grand larceny, for giving himself a retroactive lump-sum raise of about \$1 million for managing his mother's finances. Justice Bartley also gave Mr. Marshall a one-year sentences for each of the 13 other counts, to run at the same time as the longer sentence.

Mr. Marshall showed no response as Justice Bartley announced the sentence. Throughout the hearing his wife, Charlene, was heard to sob from her seat in the courtroom.

In court papers, Mr. Marshall's lawyers argued that sending him to prison would be tantamount to imposing a death sentence. Mr. Marshall has a long record of health problems, they said.

He underwent quadruple bypass surgery last year, and his lawyers presented statements from his cardiologist, who said Mr. Marshall had become frailer and weaker during the trial.

Mr. Marshall's lawyers also submitted a separate statement from a neurologist who said he had been taking care of Mr. Marshall since mid-June, in the wake of a transient ischemic attack, commonly called a mini-stroke. "Mr. Marshall is not capable of withstanding the inevitable hardship which a jail sentence confers on a patient," the neurologist, Dr. Raymond H. Coll, wrote, "and will react adversely."

Mr. Morrissey, a lawyer who was accused of being a primary architect of a scheme to defraud Ms. Astor by changing her will to benefit Mr. Marshall, was also sentenced to one to three years.

Justice Bartley said Mr. Morrissey had abandoned his "higher duties" as a lawyer and committed "the moral and ethical lapses that were apparent to me throughout this trial."

The judge said that Mr. Morrissey had played a major role in the case and that he and Mr. Marshall — along with Mr. Marshall's wife — were "inextricably linked." Mrs. Marshall, who attended the trial every day with her husband, was not charged.

Mr. Morrissey's lawyer, Thomas P. Puccio, indicated that he would file an appeal.

The sentencing followed lengthy speeches by both the prosecution and the defense. One of the prosecutors, Joel J. Seidemann, said that in giving himself the million-dollar salary increase, Mr. Marshall had shown "a sense of entitlement."

"He wouldn't have deigned to go to Mrs. Astor when she was competent and ask for a 208 percent raise," Mr. Seidemann said. Referring to Mr. Marshall's service in World War II as he called for prison time, he added: "A Marine Corps tie clasp should not be used as a Monopoly get-out-of-jail card." One of Mr. Astor's lawyers, John R. Cuti, after summarizing Mr. Marshall's life story, said, "He's not somebody who stuck his hand in the cookie jar when no one was looking."

Mr. Marshall was convicted in October after a trial that brought a galaxy of Mrs. Astor's celebrity friends to Justice Bartley's courtroom at 100 Centre Street.

The trial centered on a tangle of codicils to Mrs. Astor's will that the prosecution said she had signed under pressure from Mr. Marshall. Most prominent among them was a will she signed in 2002 calling for most of her fortune to go to him.

Mrs. Astor, who all but single-handedly gave away nearly \$200 million of her late husband's money while she was alive, had promised millions more to institutions like the [New York Public Library](#) and the [Metropolitan Museum of Art](#) on her death.

Mrs. Astor [died in 2007](#) at 105.

Even the jurors themselves provided a moment of theater, when they told the judge that one juror had felt “personally threatened by comments made by another juror.”

The judge ordered the jurors to “hang in there,” denying a defense motion for a mistrial and sending the jurors back with instructions to show “respect and civility.” Some lawyers not involved with the case said the note provided the defense with grounds for an appeal.

*Colin Moynihan contributed reporting.*

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