

## **Felony conviction in trooper's death struck down**

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The state Criminal Court of Appeals yesterday struck down the felony conviction of a man who killed a state trooper and gravely injured a suspect in a hit-and-run accident.

James Sheppard, 36, will no longer be a convicted felon.

A jury convicted Sheppard of the felony charge of leaving the scene of a fatal accident and the misdemeanor charge of leaving the scene of an injury accident. He was acquitted on charges of reckless vehicular homicide and reckless driving in the Jan. 1, 2001, death of Trooper John Mann.

Sheppard struck Mann and car thief suspect Charles W. Gray as the two were wrestling on an icy patch of interstate on the downtown loop. Mann, a 16-year THP veteran, was killed, and Gray suffered brain damage and other serious injuries.

Sheppard did not stop at the scene. He surrendered several hours later and told police he didn't realize until he saw news reports that he had hit two people.

Sheppard received a sentence of 45 days in jail plus more than a year of probation and enrollment in an alcohol treatment program. His attorneys said he had completed the sentence.

The felony conviction was remanded on a technicality, said Ed Yarbrough, one of his lawyers.

A grand jury indicted Sheppard on two misdemeanor counts of leaving the scene of an accident, but just before the trial the prosecution moved to amend one of the counts to a felony charge.

"They tried to elevate it to a felony by merely amending the indictment," said Nashville attorney David Raybin, Sheppard's other lawyer. Raybin said the defense attorneys argued that prosecutors could not increase the level of the charge without the defendant's permission.

"It certainly was a tragic case for everyone, but we do not believe that Mr. Sheppard should have been convicted of a felony — and, of course, the appellate court agreed," Raybin said. "We're very satisfied."

Members of the Mann family could not be reached for comment last night.