

Cell phone possession a felony for inmate, 33

By Victor Whitman

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MONTICELLO — An inmate caught with a cell phone was convicted Thursday of a felony after a jury trial in Sullivan County in a case that could have statewide implications.

Barry Green, 33, who was serving time at Woodbourne Correctional Facility for a 1993 Brooklyn murder and attempted murder, smuggled in a cell phone and charger that was discovered on Sept. 9.

Green was convicted of first-degree promoting prison contraband, a felony that carries up to a seven-year prison sentence. He has been in Sullivan Correctional Facility during the trial.

Prosecutors argued the cell phone and charger posed a danger to the prison staff and community but could not establish that Green was actually using the phone to commit or plan crimes.

The District Attorney's office had the option of prosecuting this as a misdemeanor. Green's attorney, Stephan Schick, argued that Green was making calls to his wife and family. Judge Frank LaBuda would not allow the cell phone records to be entered as evidence because the phone was in Green's wife's name and the records couldn't establish that Green had made all the calls.

"They are trying to say just having a cell phone is dangerous," Schick said on Friday. "The jury appears to agree with them. There is no case law that establishes that a cell phone is dangerous. This case will probably go up the appellate ladder."

District Attorney Jim Farrell said Green is suspected of making 1,000 calls from January to September. Cell phones are banned in prisons because inmates can use them to plan escapes or assaults on other inmates, or to conduct criminal business among prison gangs.

"The potential for mischief and criminal activity is limitless," Farrell said. "Clearly he was communicating with lots of people."

vwhitman@th-record.com