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Court: DeCosters must serve jail time for salmonella outbreak

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A federal appeals court Wednesday ruled that prison time is warranted for the father-and-son DeCoster egg barons, who were convicted of introducing adulterated food into interstate commerce after eggs from their Iowa farms were linked to a 2010 national salmonella outbreak.

The U.S. District Court of Appeals 8th Circuit affirmed on a 2-1 vote the three-month sentences for Austin “Jack” DeCoster, 82, of Turner, Maine, and Peter DeCoster, 53, of Clarion, Iowa.

“The DeCosters’ three-month prison sentences are not grossly disproportionate to the gravity of their misdemeanor offenses,” Judge Diana Murphy wrote in an opinion filed Wednesday.

The judge cited a need “to protect consumers ‘who are wholly helpless’ from purchasing adulterated food products which could make them ill.”

More than 1,900 people nationwide reported getting sick from salmonella enteritidis linked to tainted eggs supplied by the DeCosters’ former company, Quality Egg LLC. The company recalled 550 million eggs.

U.S. District Court Judge Mark Bennett sentenced the DeCosters on April 13, 2015, to three months in prison. He also required the men to complete a year of probation and to pay \$100,000 each. Quality Egg was fined almost \$6.8 million.

The DeCosters’ sentences — especially the prison time — were viewed as a warning to other food producers.

The DeCosters paid their fines and restitution but appealed the prison time.

The men argued they were being punished for actions by their employees. The circuit court disagreed.

“Because the DeCosters were negligent, their liability is not vicarious,” Judge Raymond Gruender wrote. “Instead, they are responsible for their own failures to exercise reasonable care

to prevent the introduction of adulterated food. The law is clear that a defendant can be sentenced to imprisonment based on negligence — or, for that matter, based on strict liability stemming from his own conduct.”

Pro-business groups, including the Cato Institute and the National Association of Manufacturers, filed briefs in support of the DeCosters, arguing executives shouldn't serve jail time.

“Interesting that they seem so concerned about some rich white guys spending a few months in jail for selling bad products,” said Bill Marler, a Seattle-based lawyer who represented a Texas boy sickened in the salmonella outbreak.

Salmonella causes diarrhea, fever and abdominal cramps that usually last a few days. But the illness is linked to 19,000 hospitalizations and 380 deaths per year, according to the U.S. Centers for Disease Control and Prevention.

The DeCosters have the option of asking the 8th Circuit Court for a rehearing or appealing to the U.S. Supreme Court. Their attorneys did not immediately return calls Wednesday about whether they would pursue either option.