

THE NEWS & OBSERVER

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STATE PAYS \$3.9 MILLION FOR WRONGFUL CONVICTION

Raleigh, Nov. 4, 2009: The State Bureau of Investigation has agreed to a \$3.9 million settlement with former death row inmate Alan Gell to end his lawsuit accusing the SBI of fabricating evidence and obstructing justice, according to documents made public Thursday.

Officials at the SBI could not cite a bigger settlement made on behalf of the agency. The state also spent \$731,062.40 to defend the lawsuit.

Gell, who spent nine years behind bars, said the settlement amount is a concession of his innocence and the SBI's wrongdoing. He was in jail on a car theft charge when the murder for which he was wrongly convicted occurred.

The settlement was made on behalf of SBI special agent Dwight Ransome. He was the lead investigator into the 1995 killing of Allen Ray Jenkins, a retired truck driver in Aulander, about 120 miles east of Raleigh.

According to a case summary by the agent's own lawyer, Ransome had decided that Gell was guilty early on, despite having statements from 17 independent witnesses who saw Jenkins alive after Gell was jailed on unrelated charges.

Ransome recommended Gell be charged with murder while failing to inform the prosecutor of a host of evidence favorable to Gell: taped telephone calls, a failed polygraph test and the 17 witness statements.

Instead, he built the case on the stories of two drug-abusing 15-year-old girls whose stories changed every time they were interviewed or testified. The two pleaded guilty to second-degree murder and testified against Gell; no one else has been prosecuted.

SBI Director Robin Pendergraft said Thursday that Ransome has been transferred to an administrative job in Raleigh and will not conduct any more investigations. His salary, \$72,849, is unchanged.

"It was in the best interest of the SBI for him to be transferred," Pendergraft said.

Ransome declined to be interviewed.

Fallout from the lawsuit

Gell spent four of his nine years behind bars on death row. A judge ordered a new trial because prosecutors withheld evidence favorable to Gell. A jury quickly acquitted him at a retrial in 2004.

Gell sued two prosecutors from the Attorney General's Office, their supervisor, the Aulander chief of police and Ransome.

The prosecutors were dismissed from the case because they enjoy absolute immunity from prosecution or lawsuits stemming from their official actions. The town of Aulander paid Gell \$93,750 to settle the case in 2007.

The SBI paid \$500,000 to Gell, while two insurance companies paid \$3.4 million.



NEWS & OBSERVER FILE PHOTO

After being convicted of murder in 1998, Alan Gell spent nine years in prison, four of them on death row. But Gell always maintained his innocence, and, in 2004, he was acquitted. Then he sued the SBI.

One of Gell's lawyers said there was little investigation into Ransome's conduct until the civil lawsuit.

"This was the investigation that should have been done before the second trial ever took place," David Rudolf said. "My hope is when the people at the SBI look at the money and the facts of what happened, they'll see it's in the interest of justice and their own self interest to avoid this in the future."

The SBI reviewed the case against Gell in 2003 and found it "was fairly well documented." Attorney General Roy Cooper then decided to retry Gell, who was acquitted.

Pendergraft said Thursday that Ransome violated policy by failing to document critical events in the case.

Review of Ransome

Cooper said Thursday that he has hired Chris Swecker, a retired assistant FBI director, to review cases handled by Ransome and to suggest changes in policies and techniques to avoid such cases.

Cooper declined to say whether he thought Gell is innocent of Jenkins' murder. He said Gell's case was not equivalent to the Duke lacrosse case, in which he unequivocally declared the three defendants innocent.

"The Duke case was a clear case, very unusual," he said. "There was no crime committed. ... In the Gell case, the prosecutors relied on two eyewitnesses, and medical and scientific evidence."

Gell, 35, is serving a five-year prison sentence for indecent liberties for having sex with a 15-year-old girlfriend after he was freed from prison. Gell's lawyer used part of the settlement to set up a trust that has been supporting the young woman and their son. Once Gell is released from prison, he will receive \$7,857.28 each month for the rest of his life.

The settlement was signed in April; the amount was unsealed in federal court Thursday.

David Ray, the son of Allen Ray Jenkins, sat through both trials and is convinced of Gell's innocence. He said he was ecstatic over the news of the settlement.

"I hope the SBI will discipline Dwight Ransome," Ray said. "Why does he still have a job?"