

Wrongly jailed man to get \$3.9 million

Friday, February 9, 2007

By Andrew Wolfson

The Louisville *Courier-Journal*

Metro Louisville government has agreed to pay \$3.9 million to a Louisville man who was freed from prison after DNA evidence showed he'd been wrongly convicted of rape.

Bill Patteson, a spokesman for the Jefferson County attorney's office, confirmed the settlement with William Gregory was struck yesterday morning.

Gregory, 59, had claimed in a lawsuit that by wrongly arresting him on rape charges, Louisville's police department had caused him to endure seven years of degradation behind bars.

Convicted in 1993 of raping one woman and attempting to rape another, Gregory was freed in 2000 after DNA tests showed that seven hairs found in a stocking mask used by the rapist couldn't have been his. He was the first Kentuckian exonerated through DNA.

The state of Kentucky in November paid Gregory \$700,000 to settle his claims against a state forensic examiner who testified against him.

Gregory, who has worked at Best Buy in St. Matthews, said yesterday that he couldn't comment without the consent of his lawyers.

He said last month that the settlement with the state would help him prepare for his retirement and deal with his deteriorating health, including a heart condition and diabetes.

New York lawyer Barry Scheck, one of Gregory's lawyers, also declined yesterday to comment on the settlement. Scheck has helped free offenders around the country who were imprisoned for crimes that DNA and other evidence showed they didn't commit.

Patteson said yesterday: "We believe it is an equitable settlement that is fair to all parties involved. And we are satisfied to have the matter resolved."

A federal district judge previously had dismissed the city and the officers as defendants in Gregory's suit, but a federal appeals court last April overturned that decision, saying Gregory had shown that Louisville police used discredited identification procedures to arrest him.

The appeals court found that the police department encouraged one-on-one "show-ups" — in which police present one person to a witness and ask if that person is the suspect — rather than using a more reliable procedure in which the witness is presented with several people from whom to pick.

The appellate panel also said Gregory presented evidence that the department failed to train officers about their duty to disclose evidence that suggests a suspect is innocent.

The court said Officer Steve Clark, who investigated the first attack, testified at a preliminary hearing that the victim failed to pick Gregory from a photo array but did not reveal that she picked another suspect.

Clark testified at the same hearing that the victim's description "fit" Gregory, even though she described him as 5 feet, 6 inches tall and clean shaven, when, in fact, he'd worn a beard for 10 years and was 5 feet, 11½ inches tall.

The court said Detective John Tarter, who has since retired, failed to tell Gregory that a second victim failed to pick him out of a photo pack. Tarter then persuaded Gregory to submit to the one-on-one show-up, in which the same victim identified him

Timothy Lange, an attorney for another retired officer named as a defendant, Joe Carroll, said the settlement covers all three officers named and that they don't have to contribute to it. Kent Wicker, who represented Tarter, said none of the officers admitted liability.

Patteson said the city also admitted no liability. He said the settlement requires only the payment to Gregory and no remedial training or policy changes by the police department. Patteson said he didn't know if the department has made any on its own.

Officer Dwight Mitchell, a Metro Louisville department spokesman, said that when the city and old Jefferson County departments were merged in 2003, the new department adopted the best policies of both department and those from other agencies, including on identification procedures. "And we continue to revise our policies, if need be," he said.

Kentucky, unlike 21 states and the federal government, has no system for compensating offenders who prove they were wrongly incarcerated. Their only recourse is to pursue action in court.

The settlement with the state was paid on behalf of forensic examiner Dawn Ross Katz, who found that five of the hairs in the stocking cap were consistent with hairs taken from Gregory.

He accused her of falsifying her results and failing to disclose that two of the hairs didn't match his. The tests were done in 1992, before DNA testing for hair strands was available.

The state denied wrongdoing, but the Justice and Public Safety Cabinet agreed to investigate Katz's findings in 1992 and the results of her hair analysis in other cases.

Caption: William Gregory was freed in 2000 after seven years.

Saturday, February 10, 2007

Gregory relieved by city's settlement

Unjustly convicted man will aid others

By Andrew Wolfson

The Courier-Journal

William Gregory says he loves electronics and appreciates Best Buy for giving him a job after he was freed from prison for a crime he didn't commit.

But he said next week will be his last at the company's St. Matthews store, now that the city of Louisville has agreed to pay him \$3.9 million to settle his claim that he was falsely arrested.

"I am greatly relieved by the settlement and look forward to moving on with my life," Gregory said yesterday at a press conference in the Jefferson County Judicial Center.

But the 59-year-old said he can't forget the humiliation of being paraded around the courthouse in shackles "like a penguin" and "seeing people I knew."

Gregory, who was convicted in 1993 of raping one woman and attempting to rape another, was freed in 2000 after newly available DNA tests showed he was the wrong man.

In November, the state agreed to pay him \$700,000 to settle his claims against a state police forensic examiner who testified against him. He has no other lawsuits pending.

Gregory said he was working Thursday morning when he got a call that the case had finally been settled. He said he walked around in circles two or three times letting it sink in.

Gregory said he would try to make sure no other innocent people from Louisville are sent to prison and will ask Louisville Metro Police Chief Robert White and Commonwealth's Attorney Dave Stengel if they'll accept his help to improve witness-identification procedures.

Gregory's local counsel, Larry Simon, said Gregory was tricked by police into participating in a one-on-one show-up even though the witness had failed to pick him from a photo array of several possible suspects.

Simon read a statement from Gregory's New York lawyers, including Barry Scheck, who commended Gregory for "maintaining his faith and dignity and positive outlook on life."

Gregory said he was angry for his first three years at Northpoint Training Center but "with God's help I overcame that anger."

He said he has returned to prison two or three times to pick up friends who were being released and to shake hands with inmates.

He said nobody apologized to him for what he went through except for Jefferson Circuit Court Judge Barry Willett, whose rulings eventually allowed him to go free.

Simon said he and Gregory hope the actual culprit is identified through genetic material and prosecuted.

Asked what he would say to the defendant, Gregory said: "I would tell him that he owes me seven years of my life."