

Kenneth Wyniemko was awarded a minimum of \$3.9 million under a September 2005 agreement settling his lawsuit against Clinton Township, Michigan, for nine years of wrongful imprisonment for a rape he didn't commit.

Federal Judge Slaps Down City's Attempt To Conceal \$3.9 Million Award To Kenneth Wyniemko

By JD Staff



Chronology of Kenneth Wyniemko's saga

April 30, 1994: A man breaks into a 28-year-old Clinton Township woman's home and rapes her repeatedly over four hours while wielding a knife. Before leaving, the assailant steals \$3,000 in cash. The man wore a ski mask and she was blindfolded, so she was unable to identify her attacker.

July 14, 1994: A clean-shaven Wyniemko is arrested and appears in lineup with other men who all have facial hair except for one other man. He is released.

July 15, 1994: Wyniemko is arrested and arraigned on 15 counts of criminal sexual conduct and one count each of breaking and entering and armed robbery.

Oct. 31, 1994: Wyniemko's trial begins. His court-appointed attorney has little more than weekend to prepare his defense.

Nov. 9, 1994: Wyniemko is found guilty. The prosecution's star witness is a jailhouse informant, Glen McCormick, who testifies Wyniemko confessed the rape to him while the two were in the Macomb County Jail. After the trial the informant is spared the life sentence he faced prior to the trial. Although she didn't see her assailant clearly, the victim testified she is certain Wyniemko is her attacker, even though the man wore a ski mask and she was blindfolded.

Dec. 15, 1994: Wyniemko sentenced to 40-60 years imprisonment. The judge exceeds the sentencing guidelines because Wyniemko doesn't show remorse by insisting he is innocent.

May 2000: Wyniemko's father dies.

May 2001: The Innocence Project at Thomas M. Cooley Law School in Lansing accepts Wyniemko's case for review.

Spring 2002: Attorney Gail Pamukov agrees to represent Wyniemko pro bono.

Fall 2002: McCormick recants, saying he was coached to lie in exchange for not being given a life sentence.

June 17, 2003: Wyniemko released after nine years of wrongful imprisonment when DNA tests exclude him as the source of crime scene evidence that included, saliva on a cigarette butt discarded by the assailant, scrapings of the assailant's skin under the victim's fingernails, and the assailant's semen on a nylon used to gag the victim.

"I feel good. I want people to know this man is absolutely innocent." Macomb County Prosecutor Carl Marlinga, the day of Ken Wyniemko's release.

"This is surreal. I still can't believe this is happening." Ken Wyniemko the day of his release.

"There isn't really anything the township can do to change the fact that a man served over eight years in prison for a crime that, according to DNA tests, he didn't commit." Roger Smith, attorney for Clinton Township.

Fall 2003: Wyniemko files federal civil rights lawsuit in U.S. District Court in Detroit, naming Clinton Township and three police officers as defendants. The lawsuit alleges the officers coached jailhouse informant McCormick's testimony that Wyniemko confessed to the rape while they were in jail together. McCormick later recanted.

February 2005: Special prosecutor rules that a former Macomb County assistant prosecutor and a Clinton Township detective didn't commit wrongdoing in procuring McCormick's prosecution favorable testimony during Wyniemko's trial. The former prosecutor is

currently a Macomb County District Court judge, and the detective is still on the job.

March 2005: U.S. District Judge Lawrence Zatkoff denies the defendant's motion to dismiss Wyniemko's lawsuit. Zatkoff rules

there is evidence that police misconduct was instrumental to Wyniemko's conviction, and that he was denied a fair trial.

September 2005: Wyniemko's lawsuit against Clinton Township is tentatively settled. The settlement's terms are not publicly disclosed or reported to the federal court.

Mid-November 2005: Clinton Townships' insurance carrier makes motion to dismiss Wyniemko's lawsuit on the basis a settlement has been agreed to. The attorney for the insurance carrier refuses Judge Zatkoff's request for the settlement's terms on the grounds it is confidential information. Zatkoff orders hearing about the settlement for November 29, 2005.

November 22, 2005: The *Detroit Free Press* files a Freedom of Information Act request for the settlement terms, asserting that the public has the right to know the details because it involves public funds.

November 28, 2005: The *Detroit Free Press* obtains the settlement terms and a copy is provided to Judge Zatkoff, who cancels the hearing scheduled for the next day.

November 29, 2005: The settlement's terms are publicly reported. Wyniemko is to receive a lump sum of \$1.8 million, plus \$6,409 monthly for the rest of his life. The monthly payment will increase 3% per year, and is payable for a minimum of 20 years. If Wyniemko, 54, dies, the payments will be made to his beneficiary. The monthly payments will amount to at least \$2,066,547, so the settlement amounts to a minimum of \$3,866,547.

Sources:

Clinton Township Secret Will Be Out, David Ashenfelter, *Detroit Free Press*, November 18, 2005.
Freed man to get \$3.7 million, David Ashenfelter, *Detroit Free Press*, November 29, 2005.
Freed By Science, He Celebrates, Kim North Shine, *Detroit Free Press*, June 18, 2003.



CA Judge Sacked For Jailing Woman For Non-Existent Crime and Holding Court In Strip Club

By Hans Sherrer

Los Angeles County Superior Court Judge Kevin Ross had been a prosecutor for eight years when he was elected to the Inglewood Municipal Court in 1998.

He was elevated to Superior Court judge in 2000 when the courts unified.

Ross was privately sanctioned for ethical mis-

conduct in February 2001 by California's Commission on Judicial Performance (CJP). The CJP's sanction of Ross involved his "abuse of authority, acting in derogation of the attorney-client relationship and the right against self-incrimination, and conducting proceedings that lacked decorum and were demeaning and humiliating to defendants." ¹

Judge continued on p. 32