

Texas Denies Man Compensation For Wrongful Imprisonment

by C. C. Simmons

In 1998, a Dallas, Texas District Court jury convicted Morris S. Jones of aggravated assault with a deadly weapon. He was sentenced to 15 years imprisonment. On appeal, the trial court's judgment was affirmed.

Jones then filed an application for a post-conviction writ of habeas corpus. He claimed that newly discovered evidence established he was actually innocent of the offense of which he was convicted. The Texas Court of Criminal Appeals held a hearing on Jones' application, and in June 2001 vacated his conviction.

Thereafter, Jones sought compensation of \$25,000 per year of wrongful imprisonment as provided by Texas state law. Section 103, et seq., of the Texas Civil Practice and Remedies Code states that a person who served his sentence in prison under the laws of Texas and who has been granted relief on the basis of actual innocence of the crime for which he was sentenced is entitled to compensation.

Section 103.002, "Choice of Compensation Method," states that a person entitled to compensation may proceed administratively and apply for compensation to the State Comptroller under §103.051 or may seek compensation by bringing suit against the state under § 103.101, but may not seek compensation under both sections.

Initially, Jones applied for compensation under § 103.051 through Carole Keeton Strayhorn, the Texas State Comptroller. She denied his application. He then requested reconsideration of his application for compensation, but Strayhorn again denied it. Jones took no further action on either his § 103.051 application or on his motion for reconsideration.

Two years later, Jones filed suit in the 95th District Court, Dallas. He sought compensation for wrongful imprisonment under Civil Practice and Remedies Code § 103.101, and also sought mandamus relief against Comptroller Strayhorn under § 103.051(e). After a bench trial, the court dismissed Jones' lawsuit for want of jurisdiction. In a judgment signed on October 11, 2004, Judge Karen Johnson found: 1) Jones had initially applied for compensation administratively under § 103.051 and his application had been denied. 2) Under the Choice of Compensation Method set out in §103.002, Jones had opted for administrative relief under § 103.051. 3) Therefore Jones was barred from

seeking relief by filing suit under § 103.101.

Judge Johnson dismissed Jones' lawsuit without prejudice and for want of jurisdiction. Moreover, the court ordered that it did not have jurisdiction to enter a Writ of Mandamus against Comptroller Strayhorn under § 103.051(e). On direct appeal from Judge Johnson's ruling, Texas' Fifth Court of Appeals at Dallas upheld the trial court. Although Jones had sought but failed to receive compensation by the administrative mechanism of § 103.051, the appellate court agreed with the trial court that Jones was henceforth barred from seeking compensation by filing a lawsuit in the courts under § 103.101.

Consequently, Jones received no compensation from Texas for his three years of wrongful imprisonment. Three points in Jones' five year quest for compensation are worth noting.

First, the trial court acted properly when it declined to enter a Writ of Mandamus against Comptroller Strayhorn. The Texas Constitution and Texas (government Code § 22.002 provide that the Comptroller is one of seven state officials identified as an Executive Officer. Only the Supreme Court of Texas has authority to issue a Writ of Mandamus against an Executive Officer; only the Texas high court can issue the writ to compel the performance of a judicial, ministerial, or discretionary act that the Comptroller is authorized to perform. Clearly, then, Jones filed his petition for mandamus relief in the wrong court – the trial court. As set out in state law, Jones should have filed in the state Supreme Court which was the court of proper jurisdiction.

Second, the trial court dismissed Jones' suit without prejudice and thus left open the opportunity for Jones to refile his lawsuit in a court of competent jurisdiction.

Third, Carole Keeton Strayhorn has been a colorful and popular character on the Texas political stage for many years. She is widely known as "one tough grandma." In 2002, she received more votes than any other statewide candidate in her bid to become the state's top financial officer. She is running for Governor of Texas as an independent in the 2006 election. She is also the mother of Scott McClellan who was President Bush's Press Secretary until he resigned in April 2006.

References and Sources:

State of Texas v Morris S. Jones, F98-18511-MT, 283rd District Court, Dallas (criminal conviction); *Jones v State*, 05-98-01871-CR, Dallas Court of Appeals (criminal appeal); *Ex parte Jones*, 74116, Texas Court of Criminal Appeals (post-conviction state habeas corpus); *Jones v State v Strayhorn*, DV-0211926-D, 95th District Court, Dallas (trial court dismissal for want of jurisdiction); *Jones v State*, 05-04-01625-CV, Dallas Court of Appeals (appeal of trial court dismissal); *Newsweek*, July 4, 2005, p. 8; *Newsweek*, May 1, 2006, p. 25 ff.

Conviction Tossed For Alleged "Vampire" Rapist

In the fall of 2004, 19-year-old Leon Benjamin Forde was accused of being the "vampire" rapist. A 15-year-old girl accused Forde of ritualistically raping her two years earlier – including biting her on the neck as if he were a vampire. The attack allegedly happened in Lincoln, a city of 85,000 people about 100 miles north of London, England.

Since two years had passed from the time of the alleged rape to when the girl made her accusation, there was no physical evidence implicating Forde. The prosecution's case relied on the girl's testimony and Forde's defense relied on his denial. The jury chose to believe the girl and convicted Forde. He was sentenced to eight years in prison.

After Forde's conviction he obtained information that the girl kept a computer diary suggesting she made up the rape allegation. He filed an appeal based on the new evidence undermining his conviction.

On May 18, 2006, the Court of Criminal Appeal quashed Forde's conviction based on the girl's computer diary that suggested the rape never occurred and that she had "made it all up." The Court ordered Forde's immediate release without a retrial based on the new evidence that he had been convicted of a non-existent crime.

Just hours after the appeals court quashed his conviction, Forde was released after 18 months of wrongful imprisonment. When asked his experience, Forde described his time in prison as a convicted rapist as "hell."

Source:

Conviction quashed over 'made up' vampire claim, *The Guardian* (London, UK), May 19, 2006.



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