

Kathy Gonzalez Awarded \$350,000 For 5-1/2 Years Imprisonment As 'Beatrice Six' Defendant



Kathy Gonzalez

Six people between 23 and 31 years-old were convicted in 1989 and 1990 of charges related to the February 1985 rape and murder of 68-year-old Helen Wilson in Beatrice, Nebraska. The media dubbed them the 'Beatrice Six'.

Five of the six confessed after intense interrogations, and they made plea deals in exchange for reduced charges and sentences. Kathy Gonzalez, James Dean, and Debra Shelden pled guilty to aiding and abetting second-degree murder in exchange for a 10 year sentence. Those three served 5-1/2 years before being released in 1994. Thomas Winslow confessed to raping Ms. Wilson and he was sentenced to 10 to 50 years in prison. Ada JoAnn Taylor confessed to smothering Ms. Wilson while Winslow and Joseph White raped her. She was sentenced to 10 to 40 years in prison.

Only Joseph White insisted on his innocence. During his trial in 1989 Dean, Taylor, and Shelden testified that the six were in Ms. Wilson's apartment during her rape and murder. Taylor testified that she smothered Ms. Wilson while White raped her. White was convicted of first-degree murder. He could have been sentenced to death, but the jury recommended his life sentence.

After losing his direct appeal, White pursued DNA testing of the crime scene biological evidence. For years the State of Nebraska opposed White's efforts to test the evidence, but in 2007 the Nebraska Supreme

Court ordered the DNA testing. The testing was finally conducted on some of the evidence in the summer of 2008. All of the 'Beatrice Six' were excluded. Additional testing on the remaining evidence confirmed that none of the six people convicted of the crime — five of whom confessed and pled guilty — had anything to do with Ms. Wilson's rape and murder.

White filed a motion for a new trial based on the new exculpatory DNA evidence. His motion was granted on October 15, 2008, and he was released on a personal recognizance bond later that day. Winslow, 42, was immediately scheduled for resentencing and two days later, on October 17, 2008, he was resentenced to time served and released. Taylor, 45, was released a few weeks later on November 10. The three had each been imprisoned for more than 19-1/2 years.

The Beatrice Six are the largest number of defendants in one case exonerated by DNA testing in the United States. The DNA evidence proves that five of the defendants confessed to heinous crimes that they didn't commit, and that to comply with their plea bargains three of them falsely testified during White's trial. After their release the defendants said they falsely confessed and falsely testified to avoid the death penalty. The six defendants were wrongly imprisoned for a total of more than 76 years.

In November 2008 Nebraska Attorney General Jon Bruning held a press conference and disclosed that the DNA evidence conclusively linked Bruce Allen Smith to Ms. Wilson's rape and murder. However, Smith died in 1992 of AIDS.

Nebraska's State Board of Pardons unanimously voted on January 26, 2009, to pardon the five defendants who confessed based on their actual innocence of Helen Wilson's rape and murder. AG Bruning said, "They are 100 percent innocent."

Nebraska did not have a wrongful conviction compensation statute, but the publicity about the exoneration of the Beatrice Six resulted in the passage of a law in 2009 that provides for the payment of up to \$500,000 to a wrongly convicted person.

In October 2010 White became the first person to receive compensation under the new law when he settled his claim for the \$500,000 maximum.

On November 4, 2010, a judge approved settlement of Gonzalez's claim for \$350,000.

Claims under the state law are pending by other Beatrice Six defendants, as well as federal civil rights lawsuits that name Gage County and law enforcement officers involved in investigation of the case and extraction of the false confessions by five of the six defendants.

Credit must be given to Joseph White's attorney Doug Stratton, the Norfolk, Nebraska attorney who believed in White's innocence and continued representing him *pro bono* after his small retainer ran out in 2005. If he had not done so, the Beatrice Six would not have been exonerated.

Sources:

'Beatrice 6' woman settles, *Omaha World*, November 4, 2010.
Six People Cleared Of 1985 Nebraska Murder That Four Confessed To Committing, *Justice Denied*, Issue 41, Summer 2008, p. 16.

IRS Exempts Lump Sum State Compensation From Federal Income Tax

The IRS has issued a new interpretation of the Internal Revenue Code that exempts lump sum payments to a wrongly convicted person under a state's compensation statute from federal income tax. 32 states have compensation statutes.

The Office of Chief Counsel, Internal Revenue Service, issued a Memorandum on November 4, 2010, that states in part:

An individual may exclude from gross income the compensation that the indi-

vidual receives from the state for wrongful conviction and incarceration consistent with this analysis.

However, the new interpretation of Internal Revenue Code Section 104(a)(2) doesn't fully exempt annuity compensation payments from federal taxation. Texas, e.g., makes a lump sum payment of \$80,000 per year of wrongful imprisonment, plus an annuity that pays monthly payments for life. The amount of the annuity payment varies from case to case.

It is not known what effect the new interpretation will have on awards or settlements made to a wrongly convicted person as the result of a state or federal lawsuit.

Source:

Memorandum Number: 201045023, Office of Chief Counsel, Internal Revenue Service, November 4, 2010. Available at, www.irs.gov/pub/irs-wd/1045023.pdf

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