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ROBERT DURELL / Los Angeles Times

Clarence Chance, left, and Benny Powell, right, meet with reporters after winning their freedom in Los Angeles Superior Court. With Chance is mother Lullean McBride and his attorney, Barry Tarlow.

Judge Apologizes, Frees 2 Men in 1973 Murder

■ **Justice:** Prosecutors joined defense in seeking their release. Their lawyers say LAPD officers framed them.

By SHERYL STOLBERG
TIMES STAFF WRITER

Clarence Chance and Benny Powell walked into Los Angeles County Superior Court as handcuffed prisoners Wednesday and left as free men—released by a judge after spending 17 years behind bars for a murder that the district attorney is no longer convinced they committed.

The dramatic ruling by Judge Florence-Marie Cooper capped an extraordinary series of events for Chance and Powell, who were convicted in 1975 of killing a Los Angeles County sheriff's deputy two years earlier. Their road to freedom was paved by a New Jersey private investigator who, after four years of painstaking research, uncovered new evidence that defense lawyers say proves the two men were framed by overzealous Los Angeles Police Department investigators.

Three people who testified against Chance and Powell say they were pressured by the police. When county prosecutors launched their own investigation, they discovered that the Police Department had withheld the fact that a jailhouse informant who testified against the pair had implicated two other people and that he had flunked two polygraph tests.

With one of the original investigating officers sitting in the audience, Judge Cooper declared the Police Department's conduct "reprehensible," and said she hoped its Internal Affairs unit would look into the "sordid record" of the case. To Chance and Powell, she offered her apologies for the "gross injustices" that occurred.

"Nothing can be done to return to you the years irretrievably lost," the judge said. "My genuine hope for you both is that you can spend

the remainder of your lives not consumed by bitterness fed and fueled by angry memories, but in full and abundant pursuit of all a life of freedom has to offer you."

Then, amid shouts, applause and tears from the dozens of relatives in the courtroom, the judge said: "Mr. Powell and Mr. Chance, you are free men."

Chance, a thin man looking a bit frail in a suit coat that was too big, wiped tears from his eyes as his family rushed toward him. Powell beamed as his sister showed him photographs of young relatives he

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has never seen because they were born while he was in prison.

"I'm not bitter," Powell said. "I've tried to keep bitterness out of my heart. I feel good."

Cooper's ruling came after a two-hour hearing in which the Los Angeles County district attorney's office did something virtually unheard of in legal circles: it joined the defense request to have Chance and Powell released and wipe the convictions off their records.

"This was a terrible thing that happened," Dist. Atty. Ira Reiner said afterward. "It has been corrected. But it has not been undone."

Police Chief Daryl F. Gates vehemently disagreed. Gates, along with Lt. William Hall—who handled the case as a detective and now heads the LAPD unit that investigates officer-involved shootings—held a news conference at Parker Center after the hearing to say that they believe Powell and Chance were properly convicted and that the police had done nothing wrong.

Gates said the pair had been released on a "procedural error" and lashed out at Reiner, saying that the district attorney had "sandbagged" the Police Department by not permitting the department to participate in its re-examination of the case.

Hall said: "I absolutely believe they are guilty. I never doubted that for a second. . . . I think it's a



ROBERT GABRIEL / Los Angeles Times

Clarence Chance, center, with Lullean McBride and the Rev. J.J. Love.

travesty that they could become folk heroes out of this. They served 17 years. It should have been longer."

Before the hearing, Gates sent a letter to the district attorney's office saying that the LAPD had recently reviewed the case and determined that "the allegations of improprieties are false and inaccurate." The letter also asked the prosecutors to present the Police Department's side in court so that

public faith in the force "is not needlessly eroded."

For Chance and Powell, Wednesday's court hearing was a moment they had been dreaming about for years. Each said he never lost hope that some day he would be free.

Yet as the hour approached, they were anxious about what the judge would say and how they would adjust to their newfound freedom. After years in state prisons at

Folsom and Vacaville, they spent their last night of incarceration Tuesday in the Los Angeles County Jail. In evening interviews at the jail, their hands chained to a desktop, the two talked about their hopes and fears.

"I've been doing a lot of thinking," said Powell, who is writing his autobiography—"Stand Tall Through It All"—and hopes to pick up the career he left as a singer-songwriter. "Will I be able to find a publicist? Will they advance me some money on my story? How much will rent be? Clothes? . . . This is really starting to weigh heavily on me. We're getting out there with absolute zero. I'm 44 years old. He's 42. I really am worried about what I am going to do."

Chance said a recurring image had been running through his mind—of him walking into the courtroom, wearing the street clothes his attorney had purchased for him, seeing a throng of reporters and finally spotting his mother and his eight brothers and sisters. Although they have exchanged phone calls and letters, he has not seen them in 17 years. Visits, he said, would have been too painful.

In his vision, the judge was on the bench, rendering her decision: "You get images of how the judge will say it. Will the judge be direct with it?" He mimicked a judicial-sounding voice: "No matter what the Police Department thinks or

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anyone else thinks, I, Judge So-and-So, I feel that these men are totally innocent." Then, back in his own voice: "You don't really expect them to have that true feeling, but you wish they would."

With freedom came celebration and celebrity—television interviews, including an appearance on ABC's "Nightline," and the inevitable requests from movie producers. Powell and his family, who had flown from Phoenix, spent Wednesday night in the opulence of the Westin Bonaventure Hotel, where they stayed courtesy of the law firm of O'Melveny & Myers, which represented him. Chance

was released on the day Andrews was killed, Chance said he was not let go until after the murder.

Eventually, McCloskey took the case. He and his assistant, Paul Henderson, combed the streets of South-Central Los Angeles, tracking down witnesses who had testified 17 years earlier. They found several who said they testified against Chance and Powell under intense pressure from two LAPD detectives, Hall and Richard Knott, now retired.

But the crucial turn did not come until McCloskey began probing the testimony of jailhouse informant

Lawrence Wilson, who said at the trial that Powell had confessed. At McCloskey's urging, Deputy Dist. Atty. Peter Bozanich, a high-ranking prosecutor, began his own investigation.

Bozanich found documents showing that Wilson had implicated two other people in the murder. Moreover, he uncovered the results of two polygraph examinations that deemed Wilson untruthful. And he found that Wilson had been given special treatment in prison—including conjugal visits—as a result of his cooperation.

All of this information was withheld from prosecutors at the time of trial, Bozanich said. It was enough to convince him the convictions must be overturned.

While McCloskey was elated at the outcome, he knows from experience that for Chance and Powell, the hardest part—readjusting to life after prison—is yet to come. He says it will take at least a year for them adjust, and he worries that, in their struggle to cope, they might wind up drinking or on drugs or, even worse, back behind bars.

"The world has changed tremendously in 17½ years, and they have absolutely no conception about that," he said. "They are literally like two little chicks, blinking their eyes, out into the world, not knowing which way to turn, who to trust. . . . They have to relearn living all over again."

Times staff writer James Rainey contributed to this story.