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Man freed in '81 slaying back in court

Prosecutors oppose Toledoan's wrongful imprisonment claim



Danny Brown, with his wife Rhonda, served 19 years in prison for the rape and murder of a Toledo woman. He was released in 2001 and DNA evidence may implicate another man. (THE BLADE/DAVE ZAPOTOSKY)



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Danny Brown sat stoically yesterday in the 6th District Court of Appeals in Toledo, listening as a Lucas County prosecutor once again linked him to a murder that Mr. Brown has said he did not commit.

It was a day in court, but not the one for which Mr. Brown has longed.

Since being released from prison in 2001, he has lived a life in limbo.

He is no longer serving time for the 1981 rape and murder of Toledoan Bobbie Russell, but he has not been exonerated of the crime, either.

Yesterday, Mr. Brown's attorney argued before the appellate court that he should be given the chance to state his case for wrongful imprisonment.

Lucas County prosecutors said he cannot be compensated for his time in prison because they are still unsure whether he is innocent.

After 19 years living behind bars, Mr. Brown may be out of prison but he said he still is trapped.

"I'm exhausted from this whole ordeal with the court system," Mr. Brown, 49, said yesterday after working another 10-hour day.

"If somebody feels like I'm so guilty, why don't they try me," he asked.

"If I'm such a shady suspect, why aren't I in court after four years?"

Those are the kinds of questions that haunt Mr. Brown, who was convicted in 1982 largely on the testimony of Miss Russell's 6-year-old son.

Jeffrey Russell testified at the trial and has since maintained that it was Mr. Brown, a man who had a casual relationship with his mother, who strangled her Dec. 5, 1981.

Jeffrey Russell also testified that Mr. Brown was alone when he saw him hurting his mother.

But years later, DNA evidence found at the murder scene proved that it was not Mr. Brown who raped Miss Russell.

Instead, the evidence pointed to Sherman Preston, who is serving 20 years to life in prison for the 1983 killing of a Toledo woman. That

crime that was similar to Miss Russell's murder, according to authorities.

The evidence was enough to dismiss aggravated murder charges against Mr. Brown.

But it wasn't enough to clear him as a suspect, Prosecutor Julia Bates said.

"I've tried to be very compassionate and understanding for the position of Danny Brown," Mrs. Bates said yesterday.

"But at this point, the nature of the evidence, the state of the case, I can't say that he is not a suspect," she said.

"I can't tie my hands or my successor's hands" should other evidence come forward, Mrs. Bates said.

And because the case remains open and Mr. Brown remains a suspect, he does not meet all the criteria established for those compensated for wrongful imprisonment, in particular, that the prosecutor would commit to not charging him in the case.

Attorney Jon Richardson told the three-judge panel of the 6th District Court yesterday that Mr. Brown wasn't looking to them for money.

All he is interested in, Mr. Richardson said, is a chance to present his case in court.

In December, then-Judge Robert Christiansen of Lucas County Common Pleas Court dismissed Mr. Brown's lawsuit. Mr. Brown's attorneys appealed that decision in April.

Yesterday, John Borell, an assistant county prosecutor, argued that Judge Christiansen appropriately dismissed the lawsuit.

To overturn that verdict would in effect shorten the statute of limitation for murder, the assistant prosecutor said.

Mr. Borell added that sending the lawsuit back to the lower court for trial would "ignore" the prosecutor's decision to keep Mr. Brown as a suspect.

Mr. Richardson countered by saying that police have for four years tried to find a "nexus" between Mr. Brown and Preston and have turned up nothing.

"When does the contemplation end? The state answers, 'whenever we get done contemplating,'" Mr. Richardson told the judges.

"Send us back down to the lower court so we can try our case," he said.

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