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Supreme Court drops key case on limits of immunity for prosecutors

Prosecutors alleged to have framed two innocent men for a murder agreed on a \$12 million settlement Monday. A Supreme Court ruling could have clarified the limits of immunity for prosecutors – a legal issue that had even the Obama administration commenting on the case.

By Warren Richey Staff writer

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The US Supreme Court on Monday dismissed a case over whether prosecutors who knowingly procure false testimony that leads to a wrongful conviction can later be sued for damages.

Lawyers announced that the parties in the underlying lawsuit had agreed to end the case in a \$12 million settlement.

The two innocent men, Terry Harrington and Curtis McGhee, had spent nearly 26 years in prison for a murder they didn't commit. After the truth was discovered and they were released, they sued the prosecutors in Pottawattamie County, Iowa.

An investigation revealed that the prosecutors helped assemble and present false testimony that led to their convictions. Messrs. Harrington and McGhee had been sentenced to life in prison at hard labor with no possibility of parole.

The prosecutors fought the civil lawsuit, arguing that they were entitled to absolute immunity from such litigation for actions taken at trial.

The high court heard oral argument in the case on November 4. The case is Pottawattamie County v. McGhee and Harrington.

"Terry Harrington deserves this after his unwavering patience and perseverance as to his innocence," said one of Harrington's lawyers, Doug McCalla of Jackson, Wy. "Cases like Terry's make it very clear that we need the powerful remedies provided by this country's civil rights statutes."

'I'm innocent'

Harrington and McGhee are both African-American. They were teens when arrested and accused of murdering a recently retired local police officer who was working as a night security guard at a car dealership.

At his sentencing hearing more than 30 years ago in 1978, Harrington insisted that he was not guilty. "I just want you to know that no matter what happens, I know I'm innocent," he told the court. "As long as, you know, I feel that inside, then I'm going to keep on fighting because I know I can't see myself locked up for the rest of my life for something I didn't do."

Harrington added: "I feel I was judged by the color of my skin and not the content of my character, and I'll always feel that way until I get, you know, the kind of verdict the testimony shows, and that's innocent."

Harrington was arrested at age 17. By the time he was released he was 43.

An important legal issue

The case presented an important issue in the criminal justice system: To what extent can prosecutors be held responsible for violating the

constitutional rights of defendants when they send innocent individuals to prison?

The Obama administration had urged the high court to side with the prosecutors out of concern that a ruling for the innocent defendants might make prosecutors reluctant to aggressively enforce the law.

Attorneys general from 27 states and the District of Columbia filed a friend of the court brief urging the high court to embrace a broad view of immunity for prosecutors.

The National Association of Criminal Defense Lawyers, the Cato Institute, and the American Civil Liberties Union had argued for a lower level of immunity, so-called qualified immunity, that offers prosecutors protection from most lawsuits except when they have violated a clearly established constitutional right.

Lawyers for the prosecutors had argued that their clients deserved absolute immunity because the wrongful acts didn't occur until the trial when the false testimony was presented to the jury. Prosecutors traditionally enjoy absolute immunity for their actions at trial.

Lawyers for Harrington and McGhee said the prosecutors participated in the investigation and helped arrange the false testimony well before the trial. These actions should not be shielded by immunity, they argued.

The lawsuit against the prosecutors was filed in 2005. A similar lawsuit against the City of Council Bluff and the local police department is still pending and is expected to go to trial later this year.

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