

Citing Deal for Key Witness, Judge Orders Release of Convicted Murderer

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A Los Angeles man convicted more than 20 years ago of killing a drug dealer was ordered released Thursday after a judge ruled that Los Angeles County sheriff's deputies had cut a secret deal with a key witness to make a better case.

James Horton, who was convicted of murder in 1985, has gone through a labyrinth of legal proceedings that culminated in Thursday's ruling by U.S. Magistrate Judge Stephen J. Hillman, who said it was clear that a deal had been cut that greatly influenced testimony at the trial, and that authorities failed to disclose it to the defense. The witness was described in court papers as "the glue that held the prosecution's case together."

Horton's lawyer, Michael Rubin of San Francisco, said his client, who has always maintained his innocence, was in lockdown at Salinas Valley State Prison and did not yet know that he had been ordered freed.

"It means I can greet James Horton outside prison walls for the first time, and I can't wait to do it," Rubin said. "To have a result like this after two decades is extraordinary. He's never used a cellphone, and he's never been on the Internet. But he's only 51, and he still has a future."

The district attorney has 90 days to decide whether to retry Horton or release him. The state attorney general can also appeal the decision.

The Horton case is one of several in recent years that featured allegations of questionable behavior by Los Angeles law enforcement and prosecutors in winning convictions. William Genego, a Santa Monica lawyer who has also represented Horton, said he believed the courts -- federal courts in particular -- were seeing too many cases in which deals had not been disclosed.

"I think they thought they had seen enough and that it was time to send a message," he said.

Kenneth N. Sokoler, the assistant attorney general who handled the case for the state, said his office was disappointed with the decision.

"We did not think the petitioner showed by a preponderance of evidence [that] the prosecution made a leniency deal with the witness," Sokoler said. He also said he did not know if the office would appeal.

The Los Angeles County district attorney's office had no immediate comment.

The crux of the issue before Hillman was what exactly happened after Horton was arrested in Los Angeles and charged with the 1982 robbery-slaying of drug dealer Herschel "Lobo" Bowser.

Fu McLaurin, the key witness in the case, had admitted driving Horton to a bus station after the slaying. That would have made McLaurin an accessory after the fact and subject to prosecution, according to court records.

But before the trial, deputies told McLaurin that they would ignore his involvement if he would testify as they expected, Hillman ruled.

Horton was convicted of first-degree murder in 1985 and sentenced to death -- the bulk of the evidence having hinged on McLaurin's testimony.

In the ensuing years, the case made its way through the courts on various appeals. The death sentence was vacated by the state Supreme Court, which ruled it unconstitutional because another murder conviction Horton had received in Illinois was used as a reason for imposing it.

Then last year, Rubin, who had been appointed in 1985 to represent Horton, brought to the U.S. 9th Circuit Court of Appeals the argument that a secret deal had been cut.

In a split decision, that court ruled that disclosing such a deal would have "provided powerful and unique impeachment

evidence."

However, no court had ever ruled that such a deal had taken place, and the case was given to Hillman to conduct an evidentiary hearing on whether a deal had existed.

In Thursday's ruling, Hillman held that there was "at the very least a tacit understanding between Mr. McLaurin and the detectives, of the type that should have been disclosed to the defense."

He said he was persuaded by the force of McLaurin's testimony at the evidentiary hearing, as well as by circumstantial evidence.

The case for Horton also was bolstered by the "complete lack of any independent recollection of now remote events" by the investigating detectives in the case, Hillman found.

Rubin said he had found McLaurin in 1997 working at a restaurant in Compton. The witness immediately volunteered to testify on Horton's behalf.

Credit: Times Staff Writer

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