



Alan Gell

On April 14, 1995, a truck driver named Allen Ray Jenkins was found dead in his home in Aulander, North Carolina. He had been shot. Jenkins had a record of sex with underage girls, and in July, police interviewed Crystal Morris and Shanna Hall, two 15-year-old girls who often went to Jenkins's house and drink. The girls were interviewed numerous times and told several conflicting stories, but both eventually said they had been accomplices in a plot to rob Jenkins. According to the girls, Hall's boyfriend James Alan Gell had devised the plan, and had then killed Jenkins on April 3 when attempting the robbery. In exchange for this testimony, police dropped charges of first-degree murder and conspiracy; both girls later pled guilty to second-degree murder. Gell was charged with first-degree murder, conspiracy to commit murder, armed robbery, and conspiracy to commit armed robbery.

Gell had been in jail since June 25, after he was caught breaking a house-arrest sentence he'd received for stealing a truck. At trial, the prosecution based its case on the testimony of Morris and Hall and a doctor's testimony stating that, in light of the decomposition of Jenkins's body, it was likely that he died around April 3. The date of death was very important because Gell had been either traveling or in jail for petty crimes for much of the first two weeks of April, and could only have committed the murder on that one day. A jury found him guilty, and he was sentenced to death on March 3, 1998.

Gell's appeal was denied in 1999, but in 2002 a State Superior Court Judge found that prosecutors had withheld evidence favorable to Gell, and vacated his conviction. Gell was retried in February 2004. At trial, the defense presented key exculpatory evidence that had been previously suppressed, including the testimony of 17 witnesses who said they had seen Jenkins alive after April 3, and a tape recording of Morris saying that she had to make up a story to tell the police. A doctor also testified that, due to the high temperature in the house when Jenkins was found, his body would have decomposed quickly, and he could easily have died on a later date. On February 18, Gell was acquitted of all charges and released.

– Alexandra Gross

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State: North Carolina

County: Bertie

Most Serious Crime: Murder

Additional Convictions: Robbery, Conspiracy

Reported Crime Date: 1995

Convicted: 1998

Exonerated: 2004

Sentence: Death

Race: Caucasian

Sex: Male

Age: 20

Contributing Factors: False or Misleading Forensic Evidence, Perjury or False Accusation, Official Misconduct

Did DNA evidence contribute to the exoneration? No
:

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<http://www.newsobserver.com/2009/10/04/125693/gell-investigator-ignored-blatant.html>

Gell investigator ignored blatant clues

BY JOSEPH NEFF - Staff Writer

Published in: Local/State

The Back Story

Joseph Neff is an investigative reporter who joined The News & Observer in 1992. In 2002, he wrote "Time of Death," a four-part series on the murder of Allen Ray Jenkins and the wrongful conviction of Alan Gell. His stories helped lead to the exoneration of Gell.

In addition, Neff's reporting helped lead to the investigation and conviction of former Agriculture Commissioner Meg Scott Phipps. His investigative articles have included Blackwater, the V-22 Osprey, Mike Nifong's misconduct and the state probation system.

THE STORY SO FAR

Alan Gell was sentenced to death in 1998 for the murder of Allen Ray Jenkins. A judge ordered a new trial in 2002 because prosecutors withheld evidence that pointed to his innocence, and he was quickly acquitted after a second trial in 2004. Dwight Ransome of the State Bureau of Investigation was the lead investigator on the case. He locked in on Gell as a suspect early and disregarded evidence to the contrary. Life outside prison has been difficult for Gell. He pleaded guilty to indecent liberties and is serving a five-year sentence.

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In 2006, the lawyer for State Bureau of Investigation agent Dwight Ransome evaluated the civil rights lawsuit filed against Ransome by former death row inmate Alan Gell.

Gell was demanding \$9 million in damages -- \$1 million for each year he wrongfully spent behind bars, four of those years on death row.

Ransome's lawyer offered Gell \$2,500. Gell and his lawyers continued the case.

In March, Ransome's lawyer, Gary Clemmons of New Bern, wrote a 19-page memo re-evaluating the case.

"In conclusion, I believe that [Gell] would be more likely than not to win ... and that the damages could reach as high as four million dollars," Clemmons wrote.

The SBI and its insurance companies agreed this past spring to pay Gell \$3.9 million to settle the case. The amount was unsealed Thursday in federal court. The settlement is likely the largest the SBI has paid to resolve claims of misconduct.

Ransome botched the case early on and has no regrets, according to memos from his lawyer, depositions, SBI files and other case documents. He locked in on Gell as the suspect and disregarded conflicting evidence.

Ransome discounted or ignored statements from 17 witnesses who saw the murder victim alive after Gell was jailed on unrelated charges. He chose to base a death penalty case on the tales of two drug-abusing 15-year-old girls whose stories changed each time they testified or were interviewed.

"I don't know any stronger proof of innocence than 17 independent, impartial, unrelated witnesses, all interviewed within three days after the body was found, all corroborating that Alan was in jail when the murder occurred," said David Rudolf of Charlotte, a lawyer for Gell. "Were they all hallucinating?"

Despite the legal fallout, Ransome still works at the SBI. He now is on administrative duty in Raleigh; he is paid an annual salary of \$72,849. Taxpayers paid \$731,062.40 to defend against the lawsuit.

Conviction and acquittal

Gell was charged with murder in 1995 and sentenced to death in 1998. In 2002, he won a new trial because prosecutors had withheld evidence that pointed to his innocence. A Bertie County jury acquitted him in 2004; he is now in prison for having sex with his 15-year-old girlfriend.

The State Bar reprimanded the prosecutors in the first trial, David Hoke and Debra Graves of the Attorney General's Office, for withholding evidence and not reading their files. The AG's Office stepped in when the local prosecutor recused himself.

Gell sued Hoke, Graves, their boss, the chief of police of Aulander and Ransome. A judge dismissed the lawyers from the case because prosecutors enjoy absolute immunity. The town of Aulander settled with Gell for \$93,750 in 2007.

That left Ransome. And he proved to be a big target.

Making the case

A graduate of N.C. Central University, Ransome worked three years with the Ahoskie Police Department before joining the SBI in 1983. He had conducted more than 50

murder investigations before he was assigned to be the lead investigator into the murder of Allen Ray Jenkins, whose decomposing body was found April 14, 1995, in his home in Aulander, a small town in Bertie County in northeastern North Carolina. The SBI often assists local law enforcement with murder cases, particularly in rural areas.

The time of death was a central issue in the case. Gell was out of state or jailed from April 4, 1995, until after Jenkins' body was found.

The prosecution agreed that April 3 was the only day Gell could have killed Jenkins.

In the first hours and days of the investigation, officers interviewed Jenkins' neighbors, family and acquaintances. Seventeen people told police they had last seen Jenkins alive in the previous week, between April 7 and April 10, while Gell was in jail.

Investigators learned many details of Jenkins' sordid life. A retired truck driver, Jenkins held wild parties each weekend where he often dressed in women's underwear and traded drugs for sex.

During the first few hours of the investigation, police heard the names of two teenage girls known to hang out at Jenkins' house: Crystal Morris, a Hertford High School dropout, and Shanna Hall, who was Gell's girlfriend.

Morris went on to be the star witness against Gell. Her testimony was the only evidence tying Gell to the murder.

In their first interview, the two girls said they knew nothing about the murder. About three weeks later, Ransome interviewed Morris' boyfriend, Gary Scott, 19.

According to Scott, Morris had said that Gell had confessed to her over the phone that he, Gell, had robbed and killed Jenkins.

On May 5, 1995, Morris told Ransome the same thing: Gell had admitted to the murder over the phone. The murder date was April 3, 1995, Morris said.

On May 17, Ransome organized a polygraph test for Scott, who told the polygraph examiner that he did not kill Jenkins or have anything to do with the murder. The test strongly indicated deception on Scott's part.

Scott's failed polygraph poked a "big hole" in Morris' story, Ransome later testified in a deposition during the lawsuit.

That night, Ransome had Scott secretly record a phone conversation with the girls. During the rambling call, Morris was profane and manipulative, and admitted that she "had made up a story" for police.

By the next day, however, Ransome had locked in on his version of the case: He would rest everything on the truthfulness of the two girls. Ransome never asked Gell to take a polygraph test.

His attorney, Clemmons, summed it up in March: "By May 18, 1995, Ransome had chosen to believe Morris and Hall, two young drug abusers, about the date Jenkins was killed, despite having statements from 17 non-interested witnesses who said they had seen Jenkins alive after April 6, 1995, a failed polygraph test from Scott about whether he has shot Jenkins, a recorded phone call in which Morris admitted she had 'made up a story' to corroborate Scott's story, and Ransome's own belief that Morris and Hall were not telling the truth 'about everything' they had said."

'Eyewitnesses'

Ransome never looked for documentary evidence that could corroborate or contradict the girls' account that Gell murdered Jenkins. Ransome did not check Jenkins' phone records to see when he last made a phone call, or bank records to see when he last made a deposit or wrote a check. He didn't check postal records, pharmacy records or sales receipts, all of which could have showed days when Jenkins was alive.

Ransome never challenged Morris or Hall on whether April 3 was accurate, though the girls changed their stories each time they testified or were interviewed.

He did not think it necessary to re-interview any of the witnesses who saw Jenkins alive after Gell was jailed. Ransome said in lawsuit testimony that he discounted those witnesses because they were "lay witnesses" testifying about when they last saw the victim alive. Ransome said the girls' testimony was more valuable because they were "eyewitnesses" to the murder.

He went to District Attorney David Beard and asked that Beard indict Gell on capital murder charges.

Beard testified in the lawsuit that Ransome gave him the impression that only a few witnesses saw Jenkins alive after April 3.

Ransome did not tell Beard that he considered Scott a suspect in May, nor did he tell Beard that Scott had failed a polygraph that asked whether Scott had shot Jenkins.

And Ransome didn't tell Beard about a surreptitiously taped phone call of Gell that was favorable to the defendant; told that fingerprints had been found on the murder weapon, Gell replied "that's good" because he had nothing to do with the murder: "I'm really happy because I ain't done [expletive deleted]."

Beard testified that he probably would have never charged Gell had he known of all the favorable evidence.

Exculpatory evidence

SBI policy has been to share all evidence with the prosecutor, including exculpatory evidence favorable to the defendant. But Ransome wasn't thinking that way in 1995.

"That's not something I was focusing on," he said in a 2007 deposition. "I'm not even sure I even thought about that. That's not something I would think about in an investigation."

"You wouldn't think about the statement being exculpatory during an investigation?" asked Barry Scheck, a lawyer for Gell.

"No," Ransome said. "Why would I?"

The two girls struck a plea bargain with Beard to plead guilty to second-degree murder, testify against Gell, and receive 10-year sentences.

No regrets

Beard was not the only official misled by Ransome.

On the eve of Gell's 1998 trial, Ransome and the prosecutors met with Dr. M.G.F. Gilliland, a forensic pathologist who would be asked to estimate when Jenkins was murdered.

Gilliland asked about a statement in the medical examiner's report that said a neighbor had last seen Jenkins alive April 8, two days after Gell was jailed.

"That has been retracted," Ransome said, according to Gilliland's testimony.

Gilliland later found out that the neighbor, who lived next door to Jenkins, had never retracted her statement. At Gell's retrial she testified Jenkins was killed when Gell was in jail.

SBI director Robin Pendergraft said her agency conducted several thorough investigations into Ransome's handling of the case. Gell's lawyers don't buy that.

The SBI took no action against Ransome until Gell's civil lawsuit pried open the day-by-day facts of his investigation.

After the lawsuit, the SBI permanently removed Ransome from investigations and assigned him to a desk job.

Ransome declined to be interviewed for this story. But during a deposition, he was asked to reflect on his conduct.

"Do you regret anything having to do with how you actually conducted the investigation?"

"No," Ransome replied.

"Do you have anything you regret about having convicted Alan Gell of a capital murder that you now admit he might possibly be innocent of?"

Ransome's lawyer interrupted, saying time had run out. Ransome did not answer the question.

joseph.neff@newsobserver.com or 919-829-4516

http://www.news-record.com/content/2009/10/02/article/state_pays_39_million_for_wrongful_conviction

State pays \$3.9 million for wrongful conviction

Friday, October 2, 2009

(Updated 8:11 am)

By [News & Observer of Raleigh](#)

RALEIGH (MCT) — The State Bureau of Investigation has agreed to a \$3.9 million settlement with former death row inmate Alan Gell to end his lawsuit accusing the SBI of fabricating evidence and obstructing justice, according to documents made public Thursday.

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Officials at the SBI could not cite a bigger settlement made on behalf of the agency. The state also spent \$731,062.40 to defend the lawsuit.

Gell, who spent nine years behind bars, said the settlement amount is a concession of his innocence and the SBI's wrongdoing. He was in jail on a car theft charge when the murder for which he was wrongly convicted occurred.

"I see it as an admission of guilt" from the SBI, Gell said in a recent interview.

The settlement was made on behalf of SBI special agent Dwight Ransome. He was the lead investigator into the 1995 killing of Allen Ray Jenkins, a retired truck driver in Aulander, about 120 miles east of Raleigh.

According to a case summary by the agent's own lawyer, Ransome had decided that Gell was guilty early on, despite having statements from 17 independent witnesses who saw Jenkins alive after Gell was jailed on unrelated charges.

Ransome recommended Gell be charged with murder while failing to inform the prosecutor of a host of evidence favorable to Gell: taped telephone calls, a failed polygraph test and the 17 witness statements.

Instead, he built the case on the stories of two drug-abusing 15-year-old girls whose stories changed every time they were interviewed or testified. The two pleaded guilty to second-degree murder and testified against Gell; no one else has been prosecuted.

SBI Director Robin Pendergraft said Thursday that Ransome has been transferred to an administrative job in Raleigh and will not conduct any more investigations. His salary, \$72,849, is unchanged.

"It was in the best interest of the SBI for him to be transferred," Pendergraft said.

Ransome declined to be interviewed.

Fallout from the lawsuit

Gell spent four of his nine years behind bars on death row. A judge ordered a new trial because prosecutors withheld evidence favorable to Gell. A jury quickly acquitted him at a retrial in 2004.

Gell sued two prosecutors from the Attorney General's Office, their supervisor, the Aulander chief of police and Ransome.

The prosecutors were dismissed from the case because they enjoy absolute immunity from prosecution or lawsuits stemming from their official actions. The town of Aulander paid Gell \$93,750 to settle the case in 2007.

The SBI paid \$500,000 to Gell, while two insurance companies paid \$3.4 million.

One of Gell's lawyers said there was little investigation into Ransome's conduct until the civil lawsuit.

"This was the investigation that should have been done before the second trial ever took place," David Rudolf said. "My hope is when the people at the SBI look at the money and the facts of what happened, they'll see it's in the interest of justice and their own self interest to avoid this in the future."

The SBI reviewed the case against Gell in 2003 and found it "was fairly well documented." Attorney General Roy Cooper then decided to retry Gell, who was acquitted.

Pendergraft said Thursday that Ransome violated policy by failing to document critical events in the case.

Review of Ransome

Cooper said Thursday that he has hired Chris Swecker, a retired assistant FBI director, to review cases handled by Ransome and to suggest changes in policies and techniques to avoid such cases.

Cooper declined to say whether he thought Gell is innocent of Jenkins' murder. He said Gell's case was not equivalent to the Duke lacrosse case, in which he unequivocally declared the three defendants innocent.

"The Duke case was a clear case, very unusual," he said. "There was no crime committed. ... In the Gell case, the prosecutors relied on two eyewitnesses, and medical and scientific evidence."

Gell, 35, is serving a five-year prison sentence for indecent liberties for having sex with a 15-year-old girlfriend after he was freed from prison. Gell's lawyer used part of the settlement to set up a trust that has been supporting the young woman and their son. Once Gell is released from prison, he will receive \$7,857.28 each month for the rest of his life.

The settlement was signed in April; the amount was unsealed in federal court Thursday.

David Ray, the son of Allen Ray Jenkins, sat through both trials and is convinced of Gell's innocence. He said he was ecstatic over the news of the settlement.

"I hope the SBI will discipline Dwight Ransome," Ray said. "Why does he still have a job?"

<http://truthinjustice.org/Alan-Gell.htm>

Charlotte News-Observer

N.C. man acquitted of murder

Gell spent nearly a decade on death row

Charolette Observer By Estes Thompson;Associated Press

February 18, 2004

WINDSOR, N.C. - Alan Gell, who was removed from death row and given a new trial after a judge ruled that prosecutors withheld key evidence in his case, was acquitted Wednesday of the 1995 murder of Allen Ray Jenkins.

Jurors deliberated just 2 1/2 hours before returning the verdict in Bertie County Superior Court.

The Gell case has been a cornerstone of arguments that North Carolina needs to impose a moratorium on executions while lawmakers study the criminal justice system and Wednesday's verdict is certain to fuel that debate.

As jurors left the courtroom, Gell, 28, hugged his lawyers. His mother, Jeanette Johnson, wept as she held the hand of Gell's sister, Frankie Johnson.

Once court was dismissed, Gell was asked what he was going to do.

"Go home, where I should have been years ago," he said.

Prosecutors from the state Attorney General's office, who handled Gell's retrial, were not seeking the death penalty, but Gell did face an automatic life prison sentence if he was convicted.

The prosecutors left shortly after the verdict was read, without making comment. The office of Attorney General Roy Cooper did not immediately return a phone message seeking reaction.

Gell's stepfather, Joel Johnson of Lewiston, was jubilant.

"We finally got the truth," Johnson said. "We have felt sure he was not guilty most of the time. It was a hard fight. You can't win a fight when the other side makes up the evidence."

Asked whether he harbors hard feelings against the state for nearly a decade of imprisonment, Gell replied, "No comment. As you all know, there was some misconduct."

Gell was acquitted on all four counts that he faced: first-degree murder; conspiracy to commit first degree murder; conspiracy to commit robbery with a firearm; and robbery with a firearm.

The body of Jenkins, a 56-year-old retired truck driver, was found on April 14, 1995, inside his home in Aulander. He had been shot twice with a shotgun.

Prosecutors built a case against Gell based on the testimony of two teenagers, Crystal Morris and Shanna Hall, Gell's former girlfriend, who testified that they saw Gell pull the trigger and kill Jenkins during a robbery on April 3, 1995

But prosecutors in Gell's original trial withheld from defense lawyers a secretly taped phone call in which Morris, who was then 15 years old, did not answer when her boyfriend asked her twice whether Gell killed Jenkins.

She also told her boyfriend she had to "make up a story" about Jenkins' death.

Also withheld by prosecutors were statements from witnesses who said they saw Jenkins alive after April 3.

Gell was either out of state or in jail on a car-theft charge from April 4 until after Jenkins' body was found April 14, and 17 witnesses told investigators that they saw Jenkins alive between April 7 and 10.

Defense lawyers James Cooney and Joseph Cheshire V argued during the retrial that jurors should listen to those witnesses and to three scientific experts who either train police investigators or typically testify on behalf of state prosecutors. Those defense witnesses told jurors Jenkins' corpse and the scene of his killing were not consistent with the prosecution's argument that he was killed 11 days before his body was found.

Defense lawyers also argued that investigators also found no physical evidence such as hair, blood, fingerprints or fibers linking Gell to Jenkins' death. Police found the shotgun and other items in July 1995 after Morris and Hall told them where they had been hidden.

Both Hall and Morris reached plea bargains with prosecutors in which they promised to testify truthfully in return for being allowed to plead guilty to second-degree murder and receive sentences of nearly 10 years in prison.

The acquittal of Gell came less than two weeks after Darryl Hunt was cleared of all charges in a 1984 rape and killing in Winston-Salem. Hunt, who was found guilty of the murder of Deborah Sykes at two jury trials, was freed in December after a DNA test pinned the crime on another man, who has since confessed.

On that same day, Feb. 6, the N.C. Supreme Court overturned two death sentences, ordering a new trial in one case and a new sentencing in the other.

The state Senate approved a death penalty moratorium bill last year, but the bill was never taken up by the state House.

<http://www.newsobserver.com/2009/10/06/128003/not-pretty.html>

Editorial - Not pretty

A \$3.9 million settlement by the SBI and its insurance companies may offer lifetime security for Alan Gell, a Bertie County man (he's now 35) who was charged with murder in 1995, sentenced to death, and then acquitted in a new trial in 2004. But the Gell case itself cast disturbing clouds over a justice system that managed to put Gell's life in jeopardy because of what appears to be seriously flawed investigative work on the part of the State Bureau of Investigation and prosecutors too eager to obtain a conviction.

Those prosecutors, David Hoke and Debra Graves of the state Attorney General's Office, were reprimanded by the State Bar for withholding evidence and not reading their files. A suit by Gell against the prosecutors was dismissed because they enjoyed absolute immunity under the law.

SBI investigator Dwight Ransome, however, was seen by his attorney to be at risk in a suit, and so a settlement was made.

The News & Observer's Joseph Neff, whose 2002 series, "Time of Death," on the murder of retired truck driver Allen Ray Jenkins and Gell's wrongful conviction in that murder helped to bring about the new trial, reported last week on the settlement and then on Ransome's conduct of the investigation. It was not a pretty picture.

Ransome, who joined the SBI in 1983, has conducted more than 50 murder investigations, including the Jenkins case. The victim, a former truck driver known for wild parties and trading drugs for sex, was killed in April of 1995 in Aulander, a Bertie town in northeastern North Carolina.

Ransome pegged Gell for the crime based on what two teenage girls said at the time. The testimony of one of them was the only evidence that supposedly tied Gell to the murder. What didn't tie him to the slaying were statements from 17 other witnesses who said they had seen Jenkins alive after the date Gell was alleged to have killed him. That was important, because Gell was either in jail or out of state on the days these witnesses said they'd seen Jenkins. Despite those statements, Ransome, who is still with the SBI but no longer conducting investigations, pressed on. Gell was tried and convicted.

The investigation was sloppy by a veteran SBI agent, and that's disturbing. Prosecutors did not cover themselves in glory, and that's equally disturbing. But most disturbing of all, in terms of seriously calling into question the fairness of the justice system, is that Alan Gell might have been put to death by the state. (He's now in prison serving time for having sex with a 15-year-old girlfriend.)

The way this case was handled was disgraceful, but what might have been a grave outcome amplifies the magnitude of mistakes made and frankly demands a vast review of other investigations in which Ransome might have been involved.

Alan Gell might have been a troubled young man, but he didn't deserve to die for a crime for which all sorts of doubts as to his guilt were in play. The district attorney of Bertie County has since said he probably would not have ever charged Gell if he'd known about

all the evidence in his favor.

For state officials, including Attorney General Roy Cooper, the financial settlement should not be the end of this. Not if he and others involved in the case, and in other cases ongoing all over the state, wish to restore confidence in the system and their own credibility.

Read more here: <http://www.newsobserver.com/2009/10/06/128003/not-pretty.html#storylink=cpy>