



William Dillon

William Dillon was freed from a Florida prison in late 2008 after serving nearly 27 years for a murder DNA proves he didn't commit. He was wrongfully convicted in 1981 based on a questionable eyewitness identification, unreliable testimony from the handler of a scent-tracking dog and testimony from a jailhouse informant.

The Crime

In the early morning hours of August 17, 1981, James Dvorak was beaten to death in a wooded area near Canova Beach, in Brevard County on Florida's east coast. Later that morning, a driver picked up a hitchhiker near the beach wearing a bloody yellow T-shirt with the words "Surf It."

The driver was able to see the hitchhiker by his truck's interior light, and he later told investigators that the man was sweaty and had blood on his T-shirt and smeared on his leg and shorts. He agreed to drive the hitchhiker to a tavern three miles away. On the way to the bar, he stopped the car and performed oral sex on the hitchhiker. He then dropped the hitchhiker at the tavern. Later that morning, the driver found that the hitchhiker had left the bloody T-shirt in his truck and he disposed of the shirt in a trash can near a grocery store.

The Investigation

The victim's body – nude and severely beaten – was found that morning in the wooded area near the beach. Law enforcement officers collected the victim's discarded clothing and other items from the crime scene. Later the same day, the driver saw a news story about the murder and called police to tell them about the hitchhiker. Police recovered the T-shirt from the trash can and collected other evidence from the driver's truck.

Five days later, Dillon was with his brother at the beach when they were questioned by two law enforcement officers. Although the case had appeared in the media for five days, the officers said they were suspicious that Dillon knew about the murder and they brought him to the station for further questioning.

As part of the investigation, authorities hired John Preston, a purported expert in handling scent-tracking dogs. Eight days after the crime, Preston and his dog, Harass II, conducted two tests which he said linked the T-shirt to the crime scene and Dillon to the T-shirt. In the second test, a "paper lineup" which allegedly linked Dillon to the T-shirt, Preston allowed his dog to sniff the T-shirt and then pieces of paper, including one Dillon had touched. Preston said the dog selected Dillon's paper, and Dillon was arrested and charged with the murder.

The Trial

Prosecutors presented four main witnesses against Dillon at his trial.

A former girlfriend of Dillon's testified that she was with him on the night of the crime and had seen him standing over the victim's body wearing the yellow T-shirt. Her testimony was contradictory at times, however, and she admitted to being confused on the stand.

State: Florida

County: Brevard

Most Serious Crime: Murder

Additional Convictions:

Reported Crime Date: 1981

Convicted: 1981

Exonerated: 2008

Sentence: Life

Race: Caucasian

Sex: Male

Age: 21

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

Did DNA evidence contribute to the exoneration? Yes

Preston, the dog handler, testified that his dog had connected Dillon with the crime scene and the T-shirt worn by the perpetrator. The driver, who was legally blind in one eye, identified Dillon in court as the hitchhiker he had picked up near the crime scene. His initial description of the hitchhiker, however, did not match Dillon's physical characteristics. He originally said the hitchhiker was six feet tall and had a mustache. Dillon is 6-foot-4-inches and is physically unable to grow a mustache. Other aspects of his description also did not match Dillon's features.

A jailhouse snitch also testified that Dillon admitted guilt to him while in jail awaiting trial. Several details of the alleged confession didn't fit with the crime and, despite the presence of other prisoners at the time, there were no other witnesses to the confession. After Dillon's trial, rape charges pending against the snitch were dropped by prosecutors.

Dillon took the stand in his own defense and testified that he had been miles away from the beach on the night of the crime, and witnesses corroborated his alibi. After a five-day trial, he was convicted of first-degree murder and sentenced to life in prison.

Unreliable Testimony

Less than two weeks after the trial, Dillon's ex-girlfriend recanted her testimony. She said she had fabricated the story about seeing Dillon at the crime scene because law enforcement officers had threatened her with 25 years in prison as an accessory if she didn't testify against him. Later, it was revealed that she also had sexual intercourse during the investigation with the lead officer in the case. The officer was suspended in connection with the incident and would eventually resign.

Just three months after Dillon was sentenced, another Brevard County man – Wilton Dedge – was convicted in Brevard County of a murder based on an unreliable identification, a jailhouse snitch and the testimony of dog handler John Preston. Dedge, an Innocence Project client, was exonerated by DNA testing in 2004 after serving 22 years in prison.

Two years after Dillon's conviction, questions began to arise around the country about Preston's qualifications. By this time, Preston had participated in hundreds of cases and his testimony helped lead to countless convictions. His dog failed an accuracy test conducted by a Brevard County judge. The Arizona Supreme Court called him a "charlatan." In 2008, a Brevard County judge said Preston was used by prosecutors "to confirm the state's preconceived notions." Dillon's attorneys have alleged that prosecutors had doubts about the reliability of Preston's testimony before Dillon's trial but did not share these doubts with defense attorneys at the time. Dog scent identification is not a validated science and has played a part in other wrongful convictions later overturned by DNA testing.

Post-Conviction Appeals and Exoneration

Dillon filed several appeals in the five years following his conviction; all were denied. In 1996, he began to seek access to biological evidence for DNA testing, but these requests were also denied. In 2007, with the help of public defenders and attorneys at the Innocence Project of Florida, Dillon again requested DNA testing. This time, officials determined that most of the evidence from the investigation – including fingernail scrapings from the victim and blood and hair from the crime scene – had been lost or destroyed. The yellow T-shirt, however, had been saved. A judge ordered testing on the remaining evidence.

The results of DNA testing showed that the yellow T-shirt was conclusively tied to the killer and had not been worn by Dillon. Blood on the T-shirt matched the DNA profile of the victim. Biological material of another man was discovered on the collar and armpit of the T-shirt, indicating sweat or skin cells from the man who wore the shirt. The DNA profile developed from these areas of the shirt excluded both the victim and William Dillon.

Based on the results of these DNA tests, Dillon was released from prison on

November 18, 2008, and his exoneration became official when prosecutors dropped all charges against him on December 10.

In 2012, the Florida Legislature awarded Dillion \$1.3 in compensation and the Florida Clemency Commission also granted him a pardon for a 1981 drug conviction that occurred just before he was arrested for murder.

*Summary courtesy of the Innocence Project,
<http://www.innocenceproject.org/>. Reproduced with permission.*

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The National Registry of Exonerations is a joint project of the University of the Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law.

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Florida House OKs \$1.35 million for William Dillon who was imprisoned 27 years
Jailed for murder he didn't commit

Posted: 02/24/2012

By John Kennedy Palm Beach Post Staff Writer

TALLAHASSEE, Fla. - An emotional William Dillon looked on Friday as the Florida House agreed to pay him \$1.35 million as compensation for spending more than 27 years behind bars for a crime he did not commit.

The House voted 107-5 to approve the bill (SB 2) authorizing the payment. The Senate already approved the bill, but because the House made some changes, it must go back to the Senate, which is expected to OK the measure as early as next week.

"It's been quite a journey," said Dillon, who choked back tears following the House vote. "Money doesn't really take care of what we had to deal with, but it will help me get something."

Dillon said he considered the claims bill an apology from the state.

"Ultimately, it is about just saying, 'We're sorry this happened to you,' " he said.

Dillon, 52, who lives in Chapel Hill, N.C., was convicted of the 1981 murder of James Dvorak in Brevard County's Canova Beach. Witnesses placed him near the murder scene and his alibi didn't stand up to a jury.

It wasn't until 2005 that the Innocence Project, which works to free those thought to be wrongfully convicted, was directed to his case.

DNA testing of a bloody shirt that prosecutors said was worn by the victim showed Dillon was not the killer. After he won a new trial, prosecutors dropped charges against him, saying they didn't have sufficient evidence or witnesses to pursue the case.

Some of the original witnesses against Dillon testified only after Brevard County prosecutors threatened them with jail time for other crimes, researchers found.

"It's justifiable," Dillon said of the settlement. "When something is wrong, it's wrong."

It is one of two claims bills that Senate President Mike Haridopolos, R-Merritt Island, sponsored and made top priorities this year and last. Time expired on them in the 2011 session before the House could vote, although they passed in the Senate.

The other bill (HB 445) would compensate Eric Brody for debilitating injuries he suffered in a 1998 car accident with a Broward County sheriff's deputy. It was one of 15 claims bills approved by the House Judiciary Committee Friday.

The Brody bill reflects a \$10.75 million settlement negotiated by attorneys for Brody, the sheriff's office and an insurer. The Senate has already passed a similar bill.

The News Service of Florida contributed to this story.

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<http://smithforensic.blogspot.com/2011/04/william-dillon-bad-news-from-florida-27.html>

TUESDAY, APRIL 12, 2011

WILLIAM DILLON; BAD NEWS FROM FLORIDA; (27 YEARS THANKS TO FRAUDULENT DOG HANDLER); STATE CONTINUES TO STALL COMPENSATION; (SHAME!) FLORIDA TODAY;



"Wolfinger was not working for the state attorney's office in 1981 when Dillon was convicted of murdering Dvorak during a late-night encounter on Canova Beach. The trial was marred by the testimony of a fraudulent dog handler who was later exposed as a charlatan, a jailhouse snitch whose rape charges against him were dropped in exchange for his testimony, and the lead investigator in the case who was having sex with Dillon's girlfriend.

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Dillon's attorneys want to see the amount amended on the Senate floor to the tune of \$2 million, closer to the compensation received by Brevard County man Wilton Dedge in 2006.

The same fraudulent dog handler was used to convict Dedge of rape. He spent 22 years in prison until DNA evidence cleared him of the crime."

REPORTER JOHN A. TORRES; FLORIDA TODAY;

BACKGROUND: Bill Dillon, was 22 when he was sentenced to life in prison in 1981, for killing a man in Canova Beach on the eastern coast of the state. During the trial, Dillon was adamant that he had not committed the crime. But a man named John Preston testified in court that he and his scent-tracking German-Shepherd connected Dillon to the killer's bloody t-shirt. Preston, who billed himself as a "scent-tracking expert", said his dog, "Harrass 2," even tracked Dillon's scent repeatedly in later tests. Nearly three decades later, in 2007, DNA testing proved that Dillon's DNA did not match the DNA on the killer's shirt. The dog was wrong. Just eight months ago, after 26 years behind bars, Bill Dillon walked out of prison a free man. Preston was exposed by a Florida judge in 1984, who became suspicious of Preston and set up his own test for Harrass 2. The dog failed terribly. CNN unearthed documents which demonstrated that Harrass 2 could not even follow a scent for one-hundred feet. The judge determined the dog could only track successfully when his handler had advance knowledge of the case. Preston and his four-legged so-called expert were discredited in 1987 - but according to CNN, "the state of Florida never reviewed cases on which he'd testified . And nobody ever told Bill Dillon - who sat in prison another 20 years before he ever knew a thing about it. It wasn't until 2006 that he heard Preston was a fake." The Dillon case is now attracting massive media attention in response to the Florida's Innocence Project's well publicized concerns that dozens of inmates around the country may have been wrongly convicted as a result of John Preston and his dog. The focus now shifts to Florida's response to the Innocence Project's call for an investigation of those cases. Meanwhile, CNN informs us that Preston, the dog's handler, died last year. He was never charged with perjury or convicted of a crime."

See the CNN video here:

<http://ac360.blogs.cnn.com/2009/07/30/fake-scent-tracking-dog-sends-man-to-prison-for-life/>

"What's next?," the Florida Today story by reporter John A. Torres published on April 11, 2011 under the heading, "Dillon waits for process to work; Prosecutor sifting through investigation; William Dillon's attorneys want to see compensation amount amended on the Senate floor to the tune of \$2 million."

"A special claims bill to compensate William Dillon for wrongful incarceration must pass through a state House committee before it can be voted upon," the story continues.

"As a special claims bill to compensate a Satellite Beach man for wrongful incarceration moves slowly through the state Legislature, Gov. Rick Scott has assigned the James Dvorak murder investigation to a prosecutor from another district.

State Attorney Norman Wolfinger -- who does not support compensating William Dillon for 27 years spent in prison -- advised the governor last month he wished to voluntarily disqualify himself from the case to avoid "any appearance of conflict of interest or impropriety."

"As a result of a recent investigative breakthrough, the state attorney's office will need to review the investigation relating to their findings and further advise the Brevard County Sheriff's Office as well as make any appropriate dispositional or charging decisions," Wolfinger wrote in a letter to Scott. He added that the executive assignment of another state attorney would help determine "whether the information gathered forms the basis for further prosecutorial action involving the murder of James Dvorak."

Wolfinger was not working for the state attorney's office in 1981 when Dillon was convicted of murdering Dvorak during a late-night encounter on Canova Beach. The trial was marred by the testimony of a fraudulent dog handler who was later exposed as a charlatan, a jailhouse snitch whose rape charges against him were dropped in exchange for his testimony, and the lead investigator in the case who was having sex with Dillon's girlfriend.

DNA testing performed in 2008 on a T-shirt prosecutors said was worn by the killer found none of Dillon's DNA. Blood on the shirt belonged to the victim, results showed, but the sweat stains were from someone other than Dillon. Dillon was granted a new trial later that year before the state dropped all charges against him.

Earlier this year, Special Master for the State Senate Bram Canter issued his final report to the Senate and recommended Dillon be compensated for wrongful incarceration, though he added that he did "not believe that the evidence of his actual innocence is clear and convincing."

He cited problems with the dog handler, the recanted testimony of a jailhouse informant and the unreliable testimony of Dillon's girlfriend. But he also said Dillon was not truthful about certain things and did not do well on two polygraph examinations.

"I still have reasonable doubt due to Dillon's presence in the area of the murder, and his not being truthful about it," Canter wrote in his report.

Canter said the state attorney's office presented witness testimony "which the prosecutors knew or should have known was unreliable."

State prosecutors said they dropped charges against Dillon because they could no longer present enough evidence to convict him. They never said Dillon was cleared, however. The compensation law passed in 2008 requires exoneration.

Last week, the Florida Senate Rules Committee unanimously approved the special claims bill sponsored by Senate President Mike Haridopolos, R-Merritt Island, that would pay Dillon \$810,000 for wrongful incarceration.

But the House companion bill, sponsored by state Rep. Steve Crisafulli, R-Merritt Island, has yet to get through committee.

"I am not sure where we stand," wrote Dillon's attorney Sandy D'Alemberte in an e-mail to FLORIDA TODAY. "My understanding is that the House is not allowing the bill to move. This may relate to the sheriff's investigation."

The Brevard County Sheriff's Office turned over the findings of their investigation -- initiated in late 2009 -- to the state attorney's office. That's when Wolfinger asked the governor to step in.

"Why was this done?" D'Alemberte asked. "Of course, Bill Dillon can not be prosecuted (double jeopardy). We don't know when the sheriff will announce the end of his investigation."

Officials with the sheriff's office said the prosecutor assigned by the governor will have to sift through a lot of information.

"This homicide investigation has been very comprehensive and complex," Lt. Tod Goodyear said. "With over one hundred witness interviews and extensive DNA analysis, the state attorney's office has a great deal of information to examine and consider prior to rendering any formal decision. We look forward to releasing the results of this investigation as soon as we possibly can."

D'Alemberte explained that "double jeopardy" prevents the state from trying Dillon again.

"Of course, he does not have to raise any legal principles," he said. "He is actually innocent."

Dillon's attorneys want to see the amount amended on the Senate floor to the tune of \$2 million, closer to the compensation received by Brevard County man Wilton Dedge in 2006.

The same fraudulent dog handler was used to convict Dedge of rape. He spent 22 years in prison until DNA evidence cleared him of the crime."

The story can be found at:

<http://www.floridatoday.com/article/20110412/NEWS01/104120314/Dillon->

[waits-process-work](#)





THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
11/1/11	SM	Fav/1 amendment
	RC	

November 1, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 2 (2012)** – Senator Mike Haridopolos
Relief of William Dillon

SPECIAL MASTER'S FINAL REPORT

THIS IS AN EQUITABLE CLAIM FOR \$810,000 FROM GENERAL REVENUE, PLUS TUITION WAIVERS, TO COMPENSATE WILLIAM DILLON FOR HIS 27-YEAR WRONGFUL INCARCERATION FOR MURDER.

FINDINGS OF FACT:

On August 17, 1981, the body of 40-year-old James Dvorak was found in a wooded area frequented by gay men at Canova Beach. Canova Beach is between Melbourne Beach and Satellite Beach in Brevard County, opposite the Eau Gallie Causeway. There were multiple fractures of Dvorak's skull. The medical examiner determined that Dvorak was beaten to death with fists and possibly with a blunt instrument. No murder weapon was ever found. It was estimated that the beating occurred between 1:30 and 3:30 a.m. on August 17 and that Dvorak died soon afterward.

John Parker drove to Canova Beach on August 17, around 1:30 a.m. or a little later. He observed a man walk up from the beach. The man appeared unsteady and upset. He wore shorts and no shirt, but had a shirt in his hand. Parker pulled his truck over to the man and asked what was wrong. The man told Parker that he could not find his car and asked Parker for a ride to the A-Frame Tavern, which was not far away. Parker later described the man as 21 to 27 years old,

about 6 feet tall, and having a mustache. The man said his name was Jim. He was sweaty and had blood smears on his leg and pants. When Parker asked about the blood, the man said he had been in a bar fight. Parker drove the man to the A-Frame Tavern.

The next morning, Parker found a T-shirt in his truck. The shirt was yellow and had "SURF IT" printed on the front and back. When Parker later heard about the murder at Canova Beach, he contacted the police and told them about the hitchhiker at Canova Beach and the T-shirt that was left in his truck. The Brevard County Sheriff's Office ("BCSO") obtained the T-shirt and prepared a sketch of the hitchhiker from Parker's description. Blood on the T-shirt was matched to the murder victim, Dvorak.

At the time of the murder, William Dillon was 22 years old, unemployed, broke, locked out of his apartment for not paying the rent, and was spending his days and nights hanging out with acquaintances or strangers, and "bumming" cigarettes, drinks, meals, and rides. Dillon was often at the Pelican Bar, which is across A-1-A from Canova Beach. A couple of weeks before the murder, he met Donna Parrish at the Pelican Bar and they were spending a lot of time together.

Unlike the hitchhiker, Dillon did not have a mustache, but someone told the BCSO that Dillon had tried to grow a mustache and had recently shaved it off. Parker described the hitchhiker as being about 6 feet tall. Dillon is 6 feet, 3 inches tall. Nevertheless, interviews conducted by homicide investigators in the Canova Beach area after the murder caused Dillon to become a suspect. Some people thought the sketch of the hitchhiker looked like Dillon. Parrish reported to police that the sketch looked like Dillon and he would rob gay men for money. Other people said they heard Dillon bragging about beating up gay men.

When Dillon was contacted by the BCSO and interviewed, he gave inconsistent accounts of his whereabouts on the night of August 16 and the early morning hours of August 17. Dillon said he was at home of an acquaintance, Matt Bocci, the evening of August 16 and never went out. He later told investigators that he had lied; he had left the Bocci residence the evening of August 16, but he did not go to Canova

Beach. The interviewer, Agent Thom Fair, said that Dillon had recently-healed scratches on his hands.

Dillon agreed to two polygraph tests. After the first test, the examiner concluded that Dillon showed deception when he was asked whether he was at Canova Beach at the time of the murder and whether he hit Dvorak. After the second test, the examiner concluded that Dillon showed deception when he was asked whether he had taken money from Dvorak.

No fingerprints, blood samples, or hair samples taken from the crime scene were ever linked to Dillon. When John Parker was first asked whether he could identify Dillon as the hitchhiker, Parker was unable to make a positive identification, but he later picked Dillon out from a group of photos.

During one of Dillon's interviews, the deputies got Dillon to handle a piece of paper that was later given to John Preston, the handler of a tracking dog. According to Preston, his dog connected Dillon's scent on the piece of paper to the bloody T-shirt left in Parker's truck, indicating that Dillon's scent was also on the T-shirt. Three or four people said they had seen Dillon wearing a yellow "SURF IT" T-shirt like the one left in Parker's truck by the hitchhiker.

Donna Parrish also gave inconsistent accounts of where she and Dillon had been the evening of August 16 and the early morning hours of August 17. She said she called for Dillon at the Pelican Bar and talked to him at 2:00 a.m. on August 17; he got a ride to her home and arrived about 3:00 a.m.; Dillon was scared and depressed when he arrived and told her the "police would be after him." She said Dillon's hands were cut and he had dried blood on his hands. A week after Dillon's arrest, Parrish changed her story again. She said that she and Dillon were together at the Pelican Bar on the night of August 16; she left by herself at 1:00 a.m. on August 17 and Dillon left shortly afterward. They talked for a short while outside the bar and then Parrish hitchhiked home. She says she returned to the bar and Dillon was not there, but then showed up again and he had money to buy drinks for himself, Parrish, and some other people. A waitress at the bar also stated that Dillon had money that night, something she had never seen before. Parrish said she left Dillon and

hitchhiked home. She said Dillon got a ride to her house and told her that he had gotten into a fight and hurt someone. She said he later told her he had beaten someone “so bad he died.”

A month later, Parrish changed her story again to say that she saw Dillon in the parking area next to Canova Beach just after midnight, talking with someone at a parked car. She later went looking for Dillon, taking the path to the beach, and came upon Dillon standing next to the naked and bloody body of a man. Parrish changed her account of events so many times that all of her statements, whether they helped or hurt Dillon, are subject to doubt unless they are corroborated by others.

It was later disclosed that, following an interview of Parrish by Chief Homicide Investigator Charles Slaughter, he drove her to his residence and had sexual intercourse with her. The sexual encounter was reported by Parrish, who filed a complaint with the Sheriff's Office. Slaughter admitted the sexual contact and he was immediately suspended, demoted, and transferred out of the homicide unit.

After Dillon's arrest, he was placed in a jail cell with Roger Chapman. Chapman asked to speak with deputies. Agent Thom Fair met with Chapman at the jail. Chapman told Agent Fair that Dillon said he had “sucker punched” a man at the beach and then beat him with his fists. At the claim bill hearing held on November 2, 2009, Chapman testified that he had been coerced by Agent Fair to make up lies about Dillon or face harsh prosecution on his own charge of sexual battery. Chapman's charges were later dropped for lack of evidence. Agent Fair submitted an affidavit in which he asserts that Chapman's statement was not coerced. The testimony of Chapman and Agent Fair on this point was not subject to cross-examination and is otherwise insufficient to resolve the claim about coercion.

Sometime after Dillon's arrest on August 26, 1981, Charles and Rosanne Rogers told deputies that Dillon and Parrish had spent the night of August 16 with them in Cocoa Beach. Dillon did not say that he had stayed with the Rogers until the Rogers came forward with that account. When Dillon was asked at his trial why he had not said earlier that he stayed with the Rogers on August 16, he said he had

forgotten their names. Several people said they saw Dillon at the Bocci residence on August 16 and several people said they saw Dillon at the Pelican Bar the night of August 16 and in the early morning hours of August 17. I cannot believe that all of these people were lying or mistaken. In addition, both Dillon and Parrish had given sworn statements that they were at the Bocci residence on August 16. The Rogers' account was not considered credible in 1981 and it is still not credible.

At Dillon's trial, Parker identified Dillon as the hitchhiker who left the yellow T-shirt in his truck; Preston testified that his dog matched Dillon to the bloody T-shirt; and Chapman testified about Dillon's "confession" to him when they were sharing a jail cell. There was testimony that Dillon often wore the same kind of yellow T-shirt. Parrish testified that she saw Dillon at Dvorak's body. It is not surprising, therefore, that the jury found Dillon guilty of murder beyond a reasonable doubt.

LITIGATION HISTORY:

Dillon was tried in the circuit court for Brevard County. On December 4, 1981, he was found guilty of first degree murder. He was sentenced to life in prison.

A week after the trial, Dillon's attorney moved for a mistrial because Parrish wanted to recant her trial testimony. A hearing was held before the trial judge to consider the motion. Parrish said that she had lied about seeing Dillon at the body of the murder victim. She said she lied because Sheriff's deputies told her that if she did not lie for them, she would "rot in jail for 25 years." Parrish did not explain what crime she could have been prosecuted for that could cause her to be sentenced to 25 years in prison. Following the hearing, the trial court denied the motion for mistrial, and Dillon was sent to prison.

In addition to Dillon's loss of freedom and the many other deprivations caused by his incarceration, he claims to have been raped while in prison. He also says he has dental problems due to the poor dental care he received in prison.

Dillon's attorneys have claimed that his conviction was the result of prosecutorial misconduct, but the evidence for that claim is weak. The dog handler, John Preston, was discredited and shown to be falsely claiming that his dogs

were matching crime scene evidence to suspects when there was no match. However, he was discredited long after Dillon's trial. There is no evidence to show the BCSO knew that Preston was a fraud. The jailhouse snitch, Chapman, was not credible and he has recently recanted his recantation at the claim bill hearing. Chapman claims that the Innocence Project told him what to say at the hearing and he adheres again to his 1981 assertion that Dillon told him that he had beaten a man. Parrish also recanted her recantation of her testimony against Dillon. Parrish now says that she recanted her trial testimony due to being manipulated by Dillon's attorney. It is undisputed that a BCSO investigator had sex with Parrish during the Dvorak murder investigation, but swift disciplinary action was taken to demote and transfer the investigator and it was not shown to have affected the prosecution of Dillon.

Dillon had a good record in prison with respect to work assignments and general behavior. In 2005, Dillon learned about the Wilton Dedge case and Dedge's exoneration for a rape conviction based on DNA testing. Dillon filed a motion for DNA testing. In 2007, an interview of Dillon was seen by staff at the Innocence Project of Florida. The Innocence Project got involved to assist Dillon and paid for DNA testing of the bloody T-shirt by a private laboratory which used testing methods not available at the state laboratory. The DNA testing showed that the sweat and skin cells on the T-shirt did not come from Dillon. A motion for a new trial was granted and Dillon was released from prison on November 18, 2008. In December 2008, the State Attorney for the Eighteenth Judicial Circuit, Norman Wolfinger, decided not to pursue a new trial. In a letter sent to the Special Master, Wolfinger explained that "meeting the State's burden of proof was going to be unrealistic in light of the nine witnesses who are now deceased and another key witness who has substantial medical issues."

The New Investigation

Following Dillon's release from prison, Sheriff Jack Parker ordered a new investigation of the murder of James Dvorak. On June 9, 2011, the BCSO announced its conclusion that Dillon had not murdered Dvorak; that the murder was committed by four men who had not previously been suspects--James Johnstone, Phillip Huff, Daryl Novak, and

Eric Novak. These four men have not been arrested and charged with the murder, but the State Attorney for the Seventh Judicial District (the case was specially assigned out of Brevard County to avoid any charge of partiality) is preparing the prosecution. The four men are innocent until proven guilty in a court of law.

The investigators found a telephone memo for a call that had been received by the BCSO in 1981 from someone who had overheard Johnstone and Huff talking about having beaten a homosexual man at the beach. The Brevard County Public Defender's Office received a tip in 2010 from someone who had read about Dillon's release from prison, reporting to have heard the two Novak brothers in 1981 talking about beating up and possibly killing a gay man at the beach. In 1981, all four men lived in Satellite Beach, near the scene of the murder.

All four suspects originally denied involvement when questioned. However, in February 2011, Huff confessed that he was involved in the murder of Dvorak. Huff, who was only 17 at the time, stated that he, Johnstone and the Novak brothers were smoking marijuana at Canova Beach when they were joined by Dvorak, who was a stranger to them. At some point, Johnstone and Dvorak walked off into a wooded area. Huff and the Novak brothers later went looking for Johnstone and Dvorak and found them on the ground having sex. Upon being discovered, the two got up, and Johnstone began punching Dvorak. Then the Novak brothers chased and beat Dvorak as he pleaded for his life. Huff had no explanation for why the Novak brothers "went into a rage." Huff said Dvorak was hit in the head with a tree limb. The BCSO investigators found Huff's story to be credible because the details matched the crime scene investigation.

Johnstone, Huff, and Eric Novak volunteered DNA samples and a DNA sample was obtained from Daryl Novak without his knowledge. Johnstone's DNA matched sweat found on the yellow T-shirt that had been used to convict Dillon. At the time of the murder, Johnstone was 20 years old, 5 feet, eleven inches tall, of slender build, with brown hair and a mustache. Those features match John Parker's description of the hitchhiker with the yellow T-shirt that Parker picked up the night of the murder. Parker said the hitchhiker told him his name was Jim, which is James Johnstone's nickname.

The hitchhiker told Parker he was looking for his blue Dodge Dart. Johnstone owned a blue Dodge Dart. Therefore, the evidence implicating Johnstone is very strong. The hitchhiker told Parker that he had left some people who were still on the beach, which provides a link to the involvement of the other men.

The new investigation disclosed some earlier criminal activity by Dillon:

Aug. 1978	Possession of stolen property
Nov. 1978	Possession of stolen property
Oct. 1979	DUI
May 1981	Furnishing alcohol to a minor

Dillon was prematurely discharged from the U.S. Army in 1979 after two years of a four-year enlistment. Dillon ended his military service by being "committed to the Commissioner of Health and Social Services to serve 90 days with 65 days of the sentence suspended" as a result of his possession of stolen property. He received a discharge "under honorable conditions," which is a lesser discharge status that is used when a person is found unsuitable for military service (which can be for petty offenses).

The 244-page report of the new investigation into the Dvorak murder ends with a conclusion that Dillon was not involved in the murder of James Dvorak. The conclusion also states: "Unfortunately, there are still lingering questions concerning the behavior of William Dillon on and about August 17, 1981. Based on witness statements, witness testimony, his previous pattern of conduct, and his inconsistent and untruthful statements, concerns and important unanswered questions remain relating to Mr. Dillon's activities."

CONCLUSIONS OF LAW:

The standard of proof to establish liability for a claim bill is preponderance of the evidence. However, when the Legislature created chapter 961, F.S., in 2008, to establish a statutory proceeding to compensate victims of wrongful incarceration, it included a requirement that the claimant demonstrate "actual innocence" by clear and convincing evidence. In addition, a person seeking the compensation provided by chapter 961 must have no felony conviction other than the conviction for which he or she was wrongfully incarcerated. The relief provided under chapter 961 is

\$50,000 for each year of wrongful incarceration; a tuition waiver for up to 120 hours at a career center, community college, or university in Florida; and reimbursement of court costs, attorney's fees, and expenses incurred in the criminal proceedings.

If a wrongfully incarcerated person could get the same compensation through a claim bill as he or she can obtain in a proceeding under chapter 961, but without having to demonstrate innocence by clear and convincing evidence and despite having other felony convictions, there would be no incentive for a claimant to ever use chapter 961. To preserve the intent of chapter 961, it would be logical and reasonable for the Senate to provide less compensation in a claim bill for wrongful incarceration, unless the claimant can meet the same conditions as are contained in chapter 961.

The evidence is now clear and convincing that Dillon is innocent of the murder of James Dvorak. However, Dillon has a felony conviction for possession of a controlled substance -- a Quaalude (and, apparently, a DUI conviction related to the same traffic stop). That makes Dillon ineligible for compensation under chapter 961. In a claim bill proceeding, it is a routine practice to consider all matters related to the character of the claimant, not just felony convictions.

There is no precedent to turn to in considering this issue of an appropriate award because this is the first claim bill for wrongful incarceration since the enactment of chapter 961. I believe the award proposed in SB 2 (2012) of \$810,000 (\$30,000 for each year of incarceration), plus tuition waivers, is reasonable under the totality of the circumstances.

ATTORNEYS FEES:

Dillon's attorneys are representing him *pro bono*. There is no lobbyist's fee.

OTHER ISSUES:

I recommend the deletion of the "whereas" clauses of the bill that allege prosecutorial misconduct by the BCSO. These assertions amount to legislative findings that crimes were committed by members of the BCSO, but there have been no charges filed, no determinations by a court, and there was insufficient evidence presented to the Special Master to support these allegations.

RECOMMENDATION:

For the reasons set forth above, I recommend that Senate Bill 2 (2012) be reported FAVORABLY, as amended.

Respectfully submitted,

Bram D. E. Canter
Senate Special Master

cc: Senator Mike Haridopolos
Debbie Brown, Secretary of the Senate
Counsel of Record

Attachment



312838

LEGISLATIVE ACTION

Senate

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House

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The Special Master on Claim Bills recommended the following:

1 **Senate Amendment**

2

3 In title, delete lines 19 - 31.

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