
STATE OF WISCONSIN CLAIMS BOARD

CLAIM OF: SAM HADAWAY

CLAIM NO. 2020-038-CONV

Notice of Appeal Rights

This is a final decision of the Wisconsin Claims Board.

Any person aggrieved by this decision has a right to petition for judicial review in circuit court as provided in Wis. Stat. §§ 227.52 and 227.53. Any petition must be filed in court and served on the Board within 30 days of service of the decision. The time to file and serve a petition runs from the date the final decision is mailed. The petition shall name the Wisconsin Claims Board as the respondent.

Any person aggrieved may also file a petition for rehearing with the Board under Wis. Stat. § 227.49(1); that petition must be received by the Board within 20 days of the service of this decision.

This notice of appeal rights is provided pursuant to Wis. Stat. § 227.48.

DECISION

The Claims Board considered this matter on April 20, 2021. Attorney Heather Lewis Donnell and claimant Sam Hadaway appeared at the hearing. Assistant District Attorney Paul Tiffen appeared on behalf of The Milwaukee County District Attorney's Office.

Background

This is a claim for Innocent Convict compensation pursuant to Wis. Stat. § 775.05. The claim relates to Hadaway's 1996 conviction for attempted armed robbery, party to a crime in relation to the murder of Jessica Payne. Hadaway states he is innocent of this

crime. He requests the maximum reimbursement of \$25,000 for the 5 years he spent in prison.

Claimant's Facts and Argument

Hadaway served almost five years in prison after being convicted of attempted armed robbery in relation to the August 1995 murder of 16-year-old Jessica Payne. Payne's body was found outside a vacant house in Milwaukee with her throat slashed and evidence of sexual assault. Police arrested and interrogated Richard Gwin, who gave a statement falsely implicating himself and two others, Chaunte Ott and Sam Hadaway. Several years later Gwin confessed to his sister that this statement was false, and that he had been coerced by the police into naming others.

After speaking to Gwin, the police arrested Hadaway and interrogated him over the course of several days. At the time of his arrest, Hadaway had significant cognitive and intellectual disabilities. He was born with Cerebral Palsy and suffered from a seizure disorder for which took medication. Hadaway communicated these limitations and his need for medication to the police officers who interrogated him. He alleges that during the multiple-day interrogation, officers yelled, threw chairs, pounded on the table, isolated him from his family, and refused to give him his medication despite his requests. They repeatedly threatened that he would serve 80 years in prison, where he would be raped, unless he implicated Ott in the murder. The officers told Hadaway they would arrange a plea deal for attempted armed robbery if he made a statement against Ott. Hadaway was frightened into making a false confession and a fabricated statement. Hadaway notes that the officers' misconduct was never disclosed to the prosecutors. He pleaded guilty to attempted armed robbery and was sentenced to five years in prison.

In 2002, new DNA testing excluded Gwin, Ott, and Hadaway as sources of the semen found at the Payne crime scene. In 2003 and 2007, the Wisconsin State Police Crime Lab matched this new DNA profile to DNA taken from the victims of two similar unsolved homicides which occurred within a few blocks of the Payne murder. In 2009, the Milwaukee County Police Department announced that they matched this DNA profile to a man named Walter Ellis. Ten unsolved homicides in North Milwaukee were eventually linked to Ellis, who became known as the "North Side Strangler." Based on the DNA evidence implicating Ellis, the Wisconsin Innocence Project petitioned the courts to vacate Hadaway's conviction and allow him to withdraw his guilty plea. The Court of Appeals agreed and the charges against Hadaway were dismissed in October 2019.

Hadaway notes that the Claims Board previously awarded compensation to Chaunte Ott, who was convicted of the Payne murder, and to William Avery, who was convicted of another murder committed by Walter Ellis. Ott and Avery were both exonerated based on the same DNA evidence that proves Hadaway's innocence.

Hadaway does not believe that his confession and guilty plea should bar him from compensation under Wis. Stat. § 775.05, as having contributed to his conviction. Hadaway points to the fact that he recanted his confession in a 2007 declaration filed in support of Ott's post-conviction motion seeking a new trial. In addition, although there is no Wisconsin case law interpreting this issue, Hadaway points to *People of the State of Illinois v. Thames, et al.*, where the court considered whether to award a certificate of innocence to four co-defendants, including one who had falsely confessed and pleaded guilty to murder. Like Wis. Stat. § 775.05, the Illinois statute required the court to find that the petitioner was innocent and "did not by his or her own conduct voluntarily cause or bring about his or her own conviction." In reaching its decision in favor of all four co-defendants, the court noted that "Thames' decision to plead guilty to a sentence of 30 years' incarceration was calculated to avoid the sentence received by his co-defendants, and not an attempt to manipulate the justice system in his favor." Hadaway states that he was coerced into falsely implicating Ott and himself in the Payne murder and that his decision to plead guilty to the crime was reasonable in light of the real and/or apparent risk of receiving a long prison sentence for a crime he did not commit.

Based on the DNA evidence proving that he is innocent of this crime, the previous Claims Board awards to Chaunte Ott and William Avery, and the damages caused by his wrongful conviction, Hadaway requests the statutory maximum compensation of \$5,000 per year for a total of \$25,000.

DA's Response and Argument


Based on a review of the facts surrounding the crime, the Milwaukee County District Attorney's Office did not oppose Hadaway's claim for \$25,000, which is the statutory maximum amount, under Wis. Stat. § 775.05(4).

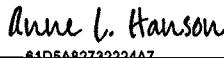
Discussion and Conclusion

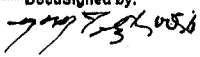
Under the standards of Wis. Stat. § 775.05(3), the Claims Board must determine whether or not the evidence is clear and convincing that the petitioner was innocent of the crime for which he was imprisoned.

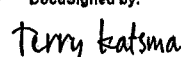
Based on the Claimant's facts and arguments summarized above, which are not opposed by the Milwaukee County District Attorney's Office, the Board concludes and finds that the evidence is clear and convincing that Hadaway was innocent of the charge discussed herein, and that under the circumstances Hadaway's confession and guilty plea should not bar him from compensation. Accordingly, the Board further concludes that compensation in the amount of \$25,000 shall be awarded from the Claims Board appropriation Wis. Stat. § 20.505(4)(d). Vote: 5-0

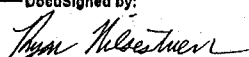
Dated at Madison, Wisconsin this 7th day of May, ²⁰²¹2020

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Corey Finkelmeyer, Chair
Representative of the Attorney General

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Anne L. Hanson, Secretary
Representative of the Secretary of
Administration

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Mary Felzkowski
Senate Finance Committee

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Terry Katsma
Assembly Finance Committee

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Ryan Nilsestuen
Representative of the Governor