



June 2, 2009

Prosecutors, judge accused of misconduct

Defense attorneys seek investigation

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Attorneys with the Louisville public defender's office are accusing two prosecutors of withholding crucial information and then lying in court about making a deal with a jailhouse informant in a capital murder case.

Defense attorneys Jay Lambert and Misty Clark held a news conference yesterday to criticize the Jefferson Commonwealth's Attorney's Office -- as well as Circuit Judge Mitch Perry -- and ask for an investigation.

They allege that prosecutors and Perry conducted a "sham" sentencing last year for inmate Michael Bryant and then lied about whether Bryant had received a lenient punishment in exchange for testifying in Cory Gibson's murder trial last week.

Lambert said Perry "obscured the record" of Bryant's sentencing and misled Gibson's attorneys.

"In 25 years of practicing law, I have never seen conduct as egregious by the prosecution or by the judge as I've seen in this case," Lambert said at the public defender's office.

Perry did not return a call seeking comment.

Lambert said he has asked Commonwealth's Attorney Dave Stengel to investigate the conduct of assistants Jason Butler and Ruth Lerner. The two told Circuit Judge Charles Cunningham, who was presiding over Gibson's murder trial, that Bryant did not receive a deal to testify against Gibson.

Steve Tedder, a spokesman for Stengel's office, said no investigation is under way.

Court records, videos

Lambert and Clark presented the media with court records and videos showing Lerner acknowledging in front of Judge Perry that Bryant was working with the prosecution in Gibson's case in exchange for a lenient plea bargain.

"And in return for that, the commonwealth is going to basically recommend that you be probated," Lerner told Bryant at his June 23, 2008, plea in front of Perry. "The judge is in agreement with that."

But prosecutors never told Gibson's attorneys about the deal, as required by law, and both Lerner and Butler told Cunningham in May that there was no such deal.

Butler said in an interview yesterday that he made no deal with Bryant and that Lerner "misspoke" when she said there was one in Perry's court during Bryant's plea agreement. Lerner could not be

reached for comment.

Butler said that he, not Lerner, was the only one who could make such a deal with Bryant in Gibson's case. He said Bryant came forward voluntarily, telling police that Gibson had confessed to him in jail.

And Butler said that, despite three hours of cross-examination on Friday, Bryant maintained repeatedly that prosecutors had not offered him a lenient sentence to testify against Gibson.

After that testimony, Lambert filed a motion asking Cunningham to dismiss Gibson's charges of sodomizing, robbing and murdering ZoAnn McCampbell, citing alleged prosecutorial misconduct.

Bryant had claimed that Gibson admitted in jail that he killed McCampbell, sodomized her corpse and robbed her.

On Saturday, Butler offered Gibson a deal in which he would plead guilty to second-degree manslaughter and two counts of tampering with physical evidence in return for a 10-year prison sentence. Gibson accepted the deal and was sentenced yesterday.

Deal accepted

Lambert said despite his concerns about how the case was handled, he advised Gibson to take the deal because his client was facing the death penalty, and the plea was more in line with Gibson's involvement in the death.

Lambert said he held the news conference because he believes Bryant has committed perjury and should be prosecuted, and he felt the handling of the Gibson case should be investigated.

ZoAnn McCampbell's family was shocked and angered by the deal prosecutors offered Gibson.

"I think it's terrible, and it's injustice to us and my daughter," said Beverly Sewell, McCampbell's mother. "I don't believe those 12 jurors would have found him not guilty. ... I am furious."

According to his arrest record, Gibson, 21, of Austin, Ind., told police he was having sex with McCampbell at Louisville Manor Motel when she died, but he didn't kill her.

Body moved

Gibson said she died after they had sex, acknowledging that he put his hands around McCampbell's neck at one time during sex. Gibson put her body near a trash container, where it was found April 5, 2007.

On June 20, 2008, Bryant gave a taped statement to police alleging that Gibson confessed to him in Metro Corrections that he intentionally killed McCampbell, sodomized and robbed her -- charges that would make him eligible for the death penalty.

Three days later, Bryant, who was facing charges of robbery and tampering with physical evidence, among others, appeared before Judge Perry, where his charges were reduced, with Lerner saying she wouldn't object to a sentence of probation.

After Bryant pleaded guilty, his attorney, Lerner and Bryant met in front of Perry's bench, where Lerner explained that Bryant was agreeing to testify in Gibson's case, according to court video.

Part of the plea deal, according to the agreement, was that Bryant stay out of trouble. But Bryant was

arrested July 2 in Bullitt County for allegedly assaulting his pregnant wife. That same month, he was again charged with assaulting a police officer.

At Bryant's sentencing on Aug. 27, his attorney acknowledged he violated the conditions of his plea agreement, making him eligible for a 10-year sentence. Perry, Lerner and Bryant's attorney then held a five-minute off-the-record conference where, at one point, Butler, the prosecutor in the Gibson case, was called from the audience to the bench, according to the video and Lambert.

After the bench conference, Lerner asked that Bryant be sentenced to 10 years in prison, but Perry gave him probation.

Lambert, who attended the hearing, asked Perry to put on the record any discussion about the Gibson case. Perry said no one had discussed Gibson's case and denied Lambert's motion.

Asked yesterday what that unrecorded bench meeting was about, Butler said he couldn't recall. But Butler noted that Perry later said he had wanted to know if Bryant was a confidential informant.

Perry said he asked Butler if Bryant was "useful" and Butler indicated he was, according to court records.

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