

Suit: Detroit detectives faked evidence, sent man to prison for 25 years

A lawsuit filed by a man who spent 25 years in prison for a 1992 murder he didn't commit claims a pair of former Detroit police detectives fabricated evidence in order to get a conviction.

Desmond Ricks, 52, who was released from prison last year [after Wayne County Prosecutor Kym Worthy dropped the charges](#), has a \$125 million lawsuit against the city of Detroit and former detectives David Pauch and Donald Stawiasz.

The suit claims the detectives, now retired, falsified firearms test results to make it look like bullets used in the killing of Gerry Bennett came from Ricks' mother's gun.

In a deposition last month, the city's own expert agreed the detectives were either incompetent when they concluded the fatal bullet was fired from Ricks' mother's .38 caliber Rossi revolver, or they lied about the ballistics evidence.

"This case is about as bad as it gets," Ricks' attorney Wolfgang Mueller said. "Not only did my client lose 25 years in the prime of his life, but his daughters were 5 days old and 7 years old when he got arrested. Now they're grown women. How do you put a value on that relationship?"

John Roach, spokesman for Mayor Mike Duggan, said Law Department officials declined to comment because the lawsuit is pending.

In the city's June 5 response to the lawsuit, assistant corporation counsel Jacob M. Satin wrote: "The detention, arrest, imprisonment, and prosecution of Plaintiff Desmond Ricks was supported by reasonable suspicion and/or

probable cause.

"Defendant police officers acted in good faith, without malice or intending harm to Plaintiffs, in performing their law enforcement duties and, therefore, are shielded by governmental immunity for intentional torts," Satin wrote.

As the lawsuit moves forward, a Detroit police internal affairs investigation into how the detectives handled the case is ongoing, police officials told The Detroit News.

The city filed a motion in March asking U.S. District Judge Paul Borman to dismiss the lawsuit, but on May 30 the judge denied the request. Borman last week ordered the parties to submit their discovery by Aug. 17, and set a tentative June 18, 2019, trial date.

Ricks' 1992 second-degree murder conviction was based in large part on bullets processed by the Detroit Police Crime Lab, which closed in 2008 after a Michigan State Police audit found widespread errors in ballistic testing.

After the audit, law enforcement officials expressed concern that years of Crime Lab employees carelessly handling evidence may have resulted in wrongful convictions. Ricks is one such example, Mueller said.

During Ricks' trial, Detroit police detectives claimed the bullets they presented as evidence were fired from his mother's pistol on March 3, 1992, resulting in Bennett's death outside a Detroit Top Hat restaurant. Ricks was convicted and sentenced to 32 to 62 years in prison.

But in 2015, after attorneys with the University of Michigan Innocence Clinic filed a motion for a new trial, Wayne County prosecutors sent the defense pictures of the bullets that had been removed from Bennett's body — photos that did not match the bullets used to convict Ricks, according to David Townshend, the ballistics expert who testified at the 1992 trial.

A state police report later concluded the bullets taken from the victim's body

were too mangled for investigators to have determined which gun was used to fire them.

A second state police report, which used a different ballistics testing technique than the method used in the first state police test, concluded one of the bullets removed from the victim had been fired from a different gun than the revolver that belonged to Ricks' mother.

Both reports contradict the testimony of Detroit Police investigators Pauch and Stawiasz, who said during Ricks' trial that the bullets they presented as evidence were removed from the victim's body, and that they had been fired from Ricks' mother's pistol.

At Ricks' trial, Townshend, a retired state police forensic examiner, was hired by the court to examine the two bullets entered into evidence, to determine whether they'd been fired from Mary Ricks' pistol. Townshend testified they had been fired from that gun.

Police had test-fired Mary Ricks' pistol into a ballistics water tank, and because the bullets presented at trial showed the markings of having been shot through that gun, Townshend concluded were likely the bullets used to kill Bennett.

Following the Detroit Crime Lab scandal — and after Ricks contacted Townshend from prison and asked him to take another look at the case — the former state police firearms expert changed his mind.

Townshend said in a 2015 affidavit that the bullets provided by Detroit police for his court examination were likely not taken from Bennett's body, because they didn't have the elements of bullets that had penetrated a body.

“The two fired evidence bullets I received ... appeared to be in near pristine condition,” Townshend said in the affidavit. “The ... bullets failed to reveal the presence of trace evidence, e.g. blood, bone, hair, tissue, fabric or

deformation that would be associated with bullets that had been fired into and removed from the skull and/or the body of a homicide victim.”

Also, Ricks' mother's pistol was classified as "6-R," meaning the gun's barrel would cut six lands and grooves into the bullet, with a right-hand rotation.

During the second state police examination, it was determined one of the two slugs removed from Bennett's body was was "5-R," meaning it cut five lands and grooves.

A second bullet, removed from the victim's skull, was too badly deformed to make a class identification.

"Nobody could be this incompetent," Mueller told The News. "It's impossible for the 5-R bullet to have been fired from a 6-R gun. So to put in a police report that the bullet was fired from (Ricks' mother's gun) had to have been done intentionally, because this is stuff you learn in the first week.”

In addition to the ballistics evidence, Innocence Clinic attorneys presented a 2014 affidavit from a restaurant employee who recanted her testimony that helped convict Ricks.

Arlene Strong testified at trial that Ricks might have been the shooter, but in the affidavit she claimed she was pressured by police to testify against Ricks, even though she knew he hadn't pulled the trigger.

Detroit police Chief James Craig — who met [with Innocence Clinic representatives last year](#) and promised to help investigate how police handled cases that may have resulted in wrongful convictions — ordered an internal affairs probe into the Ricks case.

Detroit police Capt. Michael Chambers of Internal Controls told The News the internal investigation is ongoing.

"They're still examining the case file," Chambers said. "We're still reviewing

the case to determine exactly what happened."

In May 2017, Wayne Circuit Judge Richard Skutt ordered a new trial for Ricks. Weeks later, Worthy agreed to drop the charges.

"After thoroughly examining the remaining evidence in the case we have concluded that we cannot proceed to trial, and today we agree that Mr. Ricks should be released," Worthy said in a written statement when she dropped the charges.

Two months after Ricks was released from prison, his attorney, Mueller, filed a lawsuit in federal court. Mueller also filed a claim with the state under the Wrongful Imprisonment Compensation Act, which awards \$50,000 per year served in prison to people who were wrongfully convicted.

In January, [Ricks was awarded \\$1 million](#) from the state, although if he gets more than that from his federal suit, he'll have to pay the state back.

Mueller said it's "telling" that the state agreed to pay Ricks.

"There have been 40 cases filed, but the state has only paid out five, and Desmond is one of them," Mueller said. "So even though they're fighting most of these claims tooth and nail, they agreed to pay my client right from the start. What does that tell you?"

On June 12, Jay Jarvis, ex-head of the Georgia Bureau of Investigations Crime Lab — the expert retained by the city in Ricks' lawsuit — was deposed by Mueller.

According to a deposition transcript, Mueller asked Jarvis whether a "reasonably competent, well-trained expert" could conclude the bullets taken from the victim's body could have been fired from Ricks' mother's gun.

"Either it's a mistake ... or it's done intentionally?" Mueller asked.

"I guess that's really the only two conclusions," Jarvis replied.

Mueller said the Ricks case is "only the tip of the iceberg."

"Does anybody believe this is the only time this happened?" Mueller said.

"How many other Desmond Ricks are in prison for being framed by police forensic experts?"

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