

Pardoned brothers' payout triggers fight over who gets a cut

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Two and a half years ago, state prison officials handed Henry McCollum and Leon Brown \$45 cash each to help them get their footing after three decades in prison for another man's crime.

Even in the best of circumstances, their homecoming would have been tough. The brothers have IQs in the 50s and 60s, and Brown is also mentally ill. They were plucked out of their Robeson County town as teenagers after being convicted of the rape and murder of an 11-year-old girl; in the days after their release, family struggled to shelter them properly.

Though free, they were broke and bewildered. Soon, they were surrounded by those who understood what they did not: Their suffering might one day bring big payouts. Over the past two years, consultants and lawyers from out of state have gravitated to the brothers, each aiming to stake a claim in any awards the pair might recoup. Now, some of those players are fighting with each other and threatening to sue over their slice of McCollum and Brown's awards.

ADVERTISING

"What a sad, sad situation," said James Coleman, a law professor and co-director of Duke Law School's Wrongful Conviction Clinic. "These two guys are in the

worst position to take care of business for themselves. The state dumps them. They basically wash their hands of these guys.”

At least one of these awards will come before a federal judge next month. The Town of Red Springs, where police arrested the brothers, has agreed to pay a settlement. The agreement has been filed under seal and awaits approval from U.S. District Court Judge Terrence Boyle.

Intervention with a cost

The brothers were released in September 2014 after DNA evidence tied another man to the crime. McCollum’s former death row attorney, Ken Rose, and supporters of the North Carolina Center on Death Penalty Litigation tried to help each brother. They raised more than \$14,000 for shoes and underwear, rent and utility bills. A social worker helped enroll them in Medicaid and for food stamps.

Still, the brothers struggled while they waited for then-Gov. Pat McCrory to grant an official pardon, which would release state-mandated compensation of \$750,000 to each. The family grew impatient.

Kimberly Weekes, a consultant from Atlanta, heard about the brothers’ plight from a friend who knew the family. Weekes thought she and her business partner, Deborah Pointer of New York, could bring some pressure to bear on the governor to grant the pardon. She introduced herself to the men and Geraldine Brown, the sister taking care of Leon Brown.

In January 2015, the brothers and their sister signed a contract with Weekes and Pointer’s for-profit company. The women, who bill themselves as activists, are not lawyers. They would bring “advocacy and civil rights” services to the case, the contract said. Pointer has worked in the field of college admissions; Weekes has consulted for a number of community outreach projects.

In exchange, Weekes and Pointer would be paid an advance and receive a share of the state compensation and any civil awards the brothers received in the future. Weekes informed Rose on Feb. 2, 2015, that she would now be representing the family in civil litigation, the pardon process and fundraising.

“They came out of the jail with nothing. ... They were in pretty bad shape when we came on board,” Pointer said in a phone interview, defending their payment arrangement. “You reward people that help you. I mean, that’s how I work.”

The consultants quickly expanded their role. They urged the brothers to fire their first set of civil attorneys, a lawyer from Michigan and a Wake Forest law professor; Pointer and Weekes solicited a new legal team. Eventually, after lunch

at a Marriott hotel in Brooklyn, the women settled on Patrick Megaro of Florida and Scott Brettschneider of New York.

“We knew it was a match made in heaven,” Weekes said of the lawyers.

A bridge loan

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Even with the legal team in place, Weekes and Pointer stayed involved for several months.

The two describe dozens of hours plotting strategy with the lawyers and working on publicity, including tweeting about the case and having students in Pointer’s community activism class at Metropolitan College in New York City call the governor.

“[The lawyers] looked to us for everything. Everything. We did the soup and the nuts,” Pointer said.

Weekes came to North Carolina to visit and says she spent eight days shuttling the brothers to Walmart and doctors’ appointments. Meanwhile, Pointer worked from New York to secure a settlement advance loan to take care of their living expenses. All told, the two worked for about six months and estimate they spent hundreds of hours helping them; Pointer said she has kept track of their work through email correspondence and phone lists.

Pointer and Weekes said Megaro, the attorney, signed off on the loan to the brothers and offered his firm's guarantee of repayment. The loan carried 19 percent interest. Of the \$200,000 total advance, the women took \$10,000 each as payment for their help.

The \$20,000 payment to Weekes and Pointer was to be the first of several, according to a copy of the contract Pointer provided. The women were to receive 5 percent each of the brothers' \$750,000 payout from the state and 1 percent of any potential award secured through civil litigation. The women said they provided their contract with the family to the lawyers and never heard any complaints.

Megaro and Brettschneider would also receive a portion of any potential civil awards to the brothers. Megaro declined to say how much, saying it was a confidential agreement with his clients.

Pointer and Weekes shared a copy of Megaro's contract, which they say he provided for their review in March 2015. The contract shows a sliding contingency fee: a third of the first million, with 27 percent of any payouts of more than \$2 million. Expenses would be deducted from any award. Such terms are standard in civil lawsuits for damages.

But Megaro's firm added an unusual safeguard. The contract calls for an "irrevocable interest" in the contingency fee he negotiated. Even if the brothers fired him and brought in other attorneys, Megaro would still receive his cut, according to the contract.

That arrangement may run afoul of state ethics rules for lawyers that require fees be reasonable and earned, said Ellen Murphy, a professor at Wake Forest Law School who specializes in ethics.

Megaro defended his compensation, saying he has invested thousands of hours in the case and has missed much of his sons' lives while traveling to North Carolina to work on McCollum and Brown's lawsuit.

"I've represented them vigorously and zealously because I believe they have been wronged, in my heart..." Megaro said.

"I have taken years off my life with the travel and stress of this case," he added.

Rose worked for The Center on Death Penalty Litigation, a nonprofit, during the 20 years he represented McCollum; he and a colleague filed the brothers' request for a pardon for free.

Staffers at the center say they donated more than 100 hours of time trying to get the brothers settled after their release.

Strained relations

After nearly 10 months, McCrory pardoned the brothers in June 2015. The payments it guaranteed are not taxable.

With the arrival of the money, allegiances began to falter.

Relationships between Weekes and Pointer and the lawyers began to sour after Megaro did not pay them the \$37,500 that each was expecting from the brothers' state compensation.

Megaro said the consultants' contract with the brothers isn't legally enforceable.

"I have no agreement with Deborah Pointer and Kim Weekes," Megaro said. "I never signed off on any agreement. I have never paid them a single penny nor did I authorize any payment to them, nor would I ever."

Weekes and Pointer vow to sue the lawyers.

Other relationships have become strained as well.

In a brief conversation with The N&O this month, McCollum had harsh words for Weekes and Pointer, calling them "snakes." He said "they don't deserve to get nothing" out of his settlement. Weekes and Pointer said McCollum's words are hurtful and confusing.

Weekes and Pointer also had a falling out with Geraldine Brown, saying "greed" took her over and that she was ill-equipped to care for her brothers. A Fayetteville attorney has now replaced Geraldine Brown as Leon Brown's guardian. Geraldine Brown couldn't be reached for comment.

Despite quarrels over payments, this is clear: The women and legal team were in communication and collaborating in the spring of 2015, according to emails provided by Pointer. They consulted each other about media interviews for the brothers and a demonstration in Raleigh to apply pressure on McCrory to pardon the brothers.

In the email exchanges, Megaro expressed gratitude for the help of Weekes and Pointer, including for alerting him that Brown had been arrested after he got confused one night and began banging on doors at a hotel where he was staying.

“Thank you both for helping me,” Megaro wrote in an August email. “This new situation has now created a new sense of urgency so I will have to really start moving on some legal action to make sure he gets appropriate attention.”

Brown, who suffers from both schizophrenia and bipolar disorder, has been declared incompetent and is a ward of the state living in a group home in the Fayetteville area. McCollum has moved to Richmond, Va.

Rose, McCollum’s death row attorney, said he fretted over the brothers after Weekes and Pointer got involved. When Megaro was hired to take the case, Rose said the Florida attorney told him to “stay away from” McCollum. (Megaro denied driving a wedge between McCollum and Rose.)

Rose has maintained a connection with his former client but is careful to avoid offering any guidance that could be considered legal advice. That distance pains Rose.

“This is a guy I had been representing for 20 years,” Rose said.

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THE STORY SO FAR

Henry McCollum and his brother, Leon Brown, were convicted largely based on confessions that Red Springs police and agents from the State Bureau of Investigation said they offered. They had been charged with raping and killing 11-year-old Sabrina Buie.

McCollum spent more than 30 years on death row; his brother was sentenced to life in prison.

In 2014, officials from the North Carolina Innocence Inquiry Commission found DNA evidence matching another convicted murderer on a cigarette butt found at the scene. Attorneys for the brothers had been previously told the evidence had been destroyed.

The commission was evaluating only Brown’s case at the time.

Commission officials shared the DNA findings with Robeson County District Attorney Johnson Britt and attorneys for the brothers in spring of 2014. Britt and the attorneys decided to jointly ask a judge to free them as soon as possible. A judge granted that request in September 2014.

“It was the most perfect way to find justice as soon as possible,” said Britt.

Because the brothers were not exonerated through the Innocence Inquiry Commission, the governor needed to grant them a pardon of innocence before they could collect their guaranteed compensation: \$50,000 a year for each year in prison with a cap of \$750,000. McCrory granted that pardon in June 2015.







Henry McCollum and his brother Leon Brown served 30 years for a rape and murder of a young girl which they did not commit. They were released in September 2014 after DNA evidence tied another man to the crime. **Corey Lowenstein** 2015 News & Observer file photo