



Ex-detective denies writing false report

DNA FREED INMATE: The jury is expected to begin deliberations today in the wrongful-conviction suit.

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By **MEGHAN LEWIT**
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LOS ANGELES - A former Riverside County sheriff's detective denied fabricating or omitting evidence during a rape and robbery investigation that led to the conviction of a man who was later released from prison on DNA evidence.

During several hours of testimony in federal court Thursday, Dan Miller, lead investigator in the Lake Elsinore case 20 years ago, recounted the day the rape victim first identified Herman Atkins, saying he took her into a briefing room to wait for a few minutes.

When he came back in the room, she was holding a wanted poster of Atkins. At the time, Atkins was wanted in connection with an assault case in Los Angeles.

"She said, 'This is him. It's either him or it looks exactly like him,' " said Miller.

"Did you find that particular method of her coming across the photo to be unusual?" asked San Bernardino-based attorney Arthur Cunningham, who is representing Miller.

"Yes," Miller responded.

In 1988, Herman Atkins was convicted of robbing and raping a Lake Elsinore shoe-store clerk and was sentenced to 43 years in prison. He was released in 2000 after DNA evidence that was not available at the time of the investigation cleared him of the crime.

Miller is now the defendant in a civil-rights lawsuit brought by the man who was wrongfully convicted of the crime.

Miller said he stated in his original report that the victim was not 100 percent sure of the identification.

Atkins' picture was later identified by two other women who worked in the shopping center where the shoe store was located.

When asked if he later fabricated any part of a report from a witness who placed Atkins in the Perris area at the time of the rape, Miller responded, "Absolutely not."

Attorney Peter Neufeld, who represents Atkins, said that Miller became prejudiced toward Atkins after learning that the Los Angeles assault involved two police officers. Miller then used unreliable photo

identification procedures, falsified reports and withheld information that would have helped his defense, Neufeld said during closing statements Thursday.

Neufeld on Thursday asked the jury to award Atkins \$10 million -- \$1 million for every year that Atkins spent in prison for the rape and robbery charge.

If the jury and defense attorney in the 1988 trial had known about Miller's misconduct, it would have cast doubt on the witnesses' identification and could have changed the outcome, Neufeld said.

"We all know that Herman Atkins was stone cold innocent," he said. "But DNA (evidence) only tells you how Herman Atkins got out of prison. What it doesn't tell you is how Herman Atkins got in."

"Dan Miller broke the rules, and that is why he is standing trial today."

The case against Miller centers on allegations that he wrote a false report to tie Atkins to the area, and failed to disclose a statement from the victim that a pair of shoes and a ring taken from Atkins after his arrest did not match those of the rapist. Miller denied both charges.

The witness listed in the report, Perris resident Eric Keith Ingram, said in court last week that he never knew a Herman Atkins.

Ingram testified he recalled meeting with a Dan Taylor at the Elsinore station after being brought in for a traffic matter but was not asked about Atkins.

Miller said that there was no Dan Taylor working at the Lake Elsinore station at that time.

Jury deliberation is expected to start today, following closing statements by the defense.

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