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A Fight 24 Years in the Making

A man wrongfully imprisoned for murder because of a jailhouse informant is seeking the right to sue the D.A.'s office for compensation.

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Just a day after celebrating the second anniversary of his freedom, Thomas Goldstein was in court Monday, fighting what may be a long battle to get compensation for the 24 years he spent in prison on a wrongful murder conviction.

At the U.S. 9th Circuit Court of Appeals in Pasadena, Goldstein, now 56, watched his lead lawyer, Ronald O. Kaye, spar with Los Angeles County's outside counsel, attorney David J. Wilson, over Goldstein's right to sue the Los Angeles County district attorney's office for his wrongful imprisonment.

Goldstein was convicted of the 1979 shotgun slaying of John McGinest in Long Beach on the word of a notorious jailhouse informant, Edward R. Fink. A judge later overturned the conviction because of Fink's credibility problems as well as the prosecutors' failure to tell Goldstein's attorney that they had cut a deal to go easy on Fink in a separate criminal case.

Normally, prosecutors have absolute immunity from lawsuits for anything they do in a courtroom. Wilson argued Monday that this "prosecutorial immunity" protects the county from liability.

But Kaye asserted that the two deputy district attorneys who knew about Fink's deal withheld the information as a matter of district attorney policy, which would make the county liable.

Moreover, Goldstein's suit asserts that, in the late 1970s before he was prosecuted, "two prosecutorial agencies conducted inquiries into claims by a jailhouse informant that he knew of improper conduct by" individuals in the district attorney's office regarding confessions allegedly made to a jailhouse informant.

However, the inquiries and any conclusions that the agencies reached were not indexed or widely disseminated in the office, according to the suit.

In addition, the suit contends that the district attorney's office "considered the creation of

a system to track the benefits provided to jailhouse informants ... but no such system was instituted."

Three judges heard the arguments Monday but gave no indication how they would rule or when.

Although Long Beach officials contend that their officers did nothing wrong, Goldstein's right to sue the city of Long Beach has already been clearly established.

Goldstein was freed on April 2, 2004, by a Long Beach Superior Court judge after the district attorney's office conceded that it had no case against him. In the preceding months, five federal judges had ruled that Goldstein had been wrongfully convicted, largely on the word of Fink, who testified that Goldstein had confessed to the murder while the two were in the same cell in Long Beach in 1979.

In 2002, U.S. Magistrate Judge Robert N. Block said that Fink's testimony "fits the profile of the dishonest jailhouse informant." He cited a lengthy grand jury investigation in 1990 that documented widespread use by prosecutors of false testimony from jailhouse informants in Los Angeles County during the 1970s and '80s.

The district attorney's office at the time "failed to fulfill the ethical responsibilities of a public prosecutor," the grand jury report states. The scandal led to a dramatic reduction in the use of such informants.

By the time of Goldstein's trial, Fink already had three felony convictions. Evidence unearthed after Goldstein's trial revealed that a number of people in law enforcement had doubts about his credibility. The other key witness against Goldstein recanted years later.

Eight months after he won his freedom, Goldstein, represented by Kaye, McLane & Bednarski, a small Pasadena law firm, filed a federal civil rights lawsuit, seeking damages from the city of Long Beach, Los Angeles County, four police officers and two former prosecutors.

Last year, U.S. District Judge A. Howard Matz in Los Angeles rejected the county's contention that the district attorney's office is absolutely immune from any possible liability. The county appealed, leading to Monday's hearing.

Goldstein's lawyers assert in his civil rights suit that the district attorney's office had a policy that permitted the use of testimony from jailhouse informants that was "false and fabricated."

But the county, in the brief submitted by lawyer Wilson, said that if Goldstein's action against the county "is permitted to go forward, it will be the first successful action by a criminal defendant against prosecutors who handled his case for an injury that occurred during the trial of the criminal action."

Kaye countered that Goldstein's claim is just the type that was envisioned when the Supreme Court in 1978 ruled that governmental entities can be sued under federal civil rights laws for a policy or custom that violates an individual's federal rights.

Later this week, Goldstein is scheduled to be one of the featured speakers at a conference at UCLA Law School on wrongful convictions. He already has spoken to members of Congress and testified before the state Legislature. Goldstein first tried to draw attention to the jailhouse informant problem in a letter he sent to government officials from prison in 1985.

After the hearing, Goldstein, who now works as a paralegal in Orange County, said he would continue to speak out on the issue wherever he could. "This is my legacy, something I want to leave behind to make the system better for everyone," he said.