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FOR WRONGLY CONVICTED, \$100 AND A BUS RIDE

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Freddie Pitts and Wilbert Lee petitioned the state 19 times over two decades seeking compensation for the dozen years they lost as innocent men in prison, nine sitting on Death Row.

Each time, conservative Republicans and old-South Democrats slapped them down.

When the men finally got their money, \$500,000 apiece, Pitts was so frustrated that he didn't show up at the obligatory ceremony with lawmakers to mark the event.

"I am bitter about the way the politicians jerked us around," Pitts, 59, said last week. "There's no excuse for the way they treated us. They shouldn't have had any qualms about giving us the money. It shouldn't have been political."

Inmates who are exonerated by DNA testing, cleared by prosecutors, released by judges, even pardoned by the governor are not automatically entitled to compensation under Florida law for their years of wrongful imprisonment - as they are in more than a dozen other states.

That reality is dawning on a handful of Broward County men who have seen old murder convictions overturned in the past three years through DNA testing or newly uncovered evidence of innocence.

Relatives of Frank Lee Smith, who died of cancer on Death Row at 52 before DNA testing cleared him in 2000, failed to get money from the Legislature. They turned to the court system and filed suit. Now comes the long wait.

Jerry Frank Townsend, cleared of serial murders by DNA tests in 2000 and 2001, expects to battle for compensation in the courts for years against attorneys for police and prosecutors in Broward and Miami-Dade counties.

Civil lawsuits are expected from Timothy Brown, 27, released from prison on bond last week after a federal judge overturned his 1993 murder conviction, and from Keith King, his supposed partner in the 1990 killing of a Broward deputy. They, too, can expect to wait years for any money.

A PRICE ON TIME?

"How can you put a price on time?" asked Pitts, who works nights at Miami International Airport. "What price is a human life? Something is going to have to be done at the state level to make sure there is compensation for people like me."

When the wrongly convicted walk out of prison in Florida, they get \$100 and a one-way bus ticket, the same as any other inmate.

Supporters say they deserve more.

The Innocence Project at Cardozo Law School in New York and the DNA Identification Technology and Human Rights Center of Berkeley, Calif., recently announced the establishment of their jointly run Life After Exoneration Project.

Organizers plan to establish a nationwide support network for the exonerated that includes housing assistance, job training and mental-health services.

"Someone like Tim Brown, who went into the prison system as a juvenile with special needs, probably received horrific treatment while he was in prison," said Nina Morrison, executive director of the Innocence Project. "We would help him and his family adjust and find a mentor for him, someone who has gone through what he went through."

The program should be in operation by this fall.

"One of our major platforms will be to make sure that states adequately compensate the exonerated," said Barry Scheck, co-founder of the project.

Lola Vollen, director of the DNA Identification Technology and Human Rights Center, will spearhead the program. Vollen said support is needed because people who are wrongly imprisoned are left emotionally and financially broken.

A landslide of high-profile exonerations in the past decade has brought new questions about what, if anything, inmates deserve in compensation for what they have lost - in wages, dignity, peace of mind and freedom.

"Until someone has been through the system and falsely accused and vindicated, they have no idea what kind of financial and emotional toll it takes on a person," said William Matthewman, a Miami attorney for the family of Frank Lee Smith.

Fifteen states, the District of Columbia and the federal government offer some sort of compensation to the wrongly convicted. Typically, the inmate must first show that the conviction was reversed and innocence proved.

California offers such inmates up to \$100 for each day of incarceration. Iowa offers up to \$25,000 a year. Texas caps such awards at \$500,000.

"These kinds of state mechanisms are the minority, and typically they do not provide a sufficient dollar amount in any way, shape or form to approximate the harm that was inflicted," said Locke Bowman, director of the MacArthur Justice Center at the University of Chicago Law School.

OPTIONS IN FLORIDA

No such law exists in Florida, a state with some of the most notorious cases of wrongful conviction. Vindicated men and women are left with two sobering options: Persuade a lawmaker to file a bill seeking compensation in the conservative state Legislature, or file a civil lawsuit seeking damages.

"It shouldn't be that every time someone is exonerated, we should have to go and make a personal plea before a state legislature," said Morrison of the Innocence Project. "We have a moral obligation to help them. It should be a law."

Frank Lee Smith went to Death Row for the 1985 murder of 8-year-old Shandra Whitehead in Fort Lauderdale. He spent 14 years there and finally died of cancer. Eleven months later, DNA testing cleared him.

Lawmakers considered a claims bill that would have paid his family \$3.5 million. It died in committee.

"The climate in the Legislature when it comes to criminal justice issues is extremely conservative and very skeptical when it comes to even those who have been wrongly convicted," said state Sen. Debbie Wasserman Schultz, who sponsored the claims bill for Smith in the Senate. "I think in the back of a lot of lawmakers' minds is a question mark on whether the wrongly accused are really wrongly accused."

The Weston Democrat said even she would be hard-pressed to support a state law that awarded large sums to the wrongly convicted, given the dire fiscal climate and the long list of other budget priorities.

As a potential alternative, civil lawsuits are uphill battles. Local and federal laws generally protect police and prosecutors from liability as long as they did not knowingly violate the law. The immunities are rooted in centuries-old English laws tailored to protect governments from financial ruin over an employee's errors.

"You've got to be able to show more than mere negligence, more than a mistake," said Adele Bernhard, a law professor at Pace University in White Plains, N.Y. "You've got to be able to show something that approximates malice."

Florida law insulates public agencies from jury awards of larger than \$100,000 an incident, a cap that covers police and government prosecutors. To collect an amount greater than that, plaintiffs must petition the Legislature.

The Innocence Project is lobbying at the federal level for a change.

The agency is asking the government to mandate that federal Department of Justice money be withheld from any state that doesn't have a system on the books compensating the wrongfully convicted.

Wrongly convicted inmates have prevailed in court by proving that police either fabricated false evidence or knowingly hid exculpatory evidence. But such victories remain comparatively rare, because inmates have had a difficult time proving intentional misconduct by investigators or prosecutors.

"Long story short: The plaintiff has got to show that there was a deliberate action on the part of police officers," said Bowman of the University of Chicago. "It's a lawsuit that is very, very challenging and difficult from a lawyering standpoint. You're talking about a case that will take many years."