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Ryan Ferguson settlement protects officers' personal assets, denies wrongdoing

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The settlement of Ryan Ferguson's civil rights lawsuit over his murder conviction protects the assets of six police officers but not their reputation, and that's the hardest thing to take about the outcome of the case, retired detective Jeff Westbrook said Tuesday.

Ferguson was **awarded \$10 million Monday** for the psychological damage of 10 years behind bars and \$1 million to pay attorneys who helped in his criminal trial and effort to sue the city and officers. U.S. District Judge Nannette Laughrey made the award at the end of a four-hour bench trial that followed her finding that the officers were liable for civil rights violations.

Westbrook, who was a Columbia officer for 23 years, said the settlement did not admit wrongdoing.

"My honor and integrity is probably the most important thing for me," Westbrook said. "I would never, ever violate someone's rights or do something inappropriate, nor would any of the people I worked with. I guarantee, unequivocally, without one shred of doubt, that no one did anything wrong in working this investigation or this case."

Ferguson was convicted in 2005 for the 2001 murder of Tribune Sports Editor Kent Heitholt. A three-judge panel of the Missouri Court of Appeals Western District ordered his convictions for robbery and murder vacated in November 2013. Charles Erickson, a friend of Ferguson who testified against him, later recanted his testimony and said it had been coerced.

Ferguson said Monday that he was pleased with the judgment.

"I believe my family and I, and my attorneys, we feel great," he said. "It was a great result."

The lawsuit initially included the city of Columbia; Boone County; circuit Judge Kevin Crane, who prosecuted Ferguson; several police officers; and other investigators who worked on the case. All defendants except for retired Columbia Police Department officers Bryan Liebhart, Jeff Nichols, Jeff Westbrook, John Short and Lloyd Simons and current Officer Latisha Stroer had since been dismissed from the case. The city of Columbia spent nearly \$300,000 defending the case through the end of June.

Boone County, Crane and investigators who worked with Crane in the prosecutor's office claimed absolute immunity from liability for their actions before they were dismissed from the case.

Under the terms of the settlement, released Tuesday by the city, Ferguson will receive \$2.25 million, the limit of the city's liability policy from Clarendon American Insurance Co., and \$500,000, the amount the city keeps as a self-insurance fund. The settlement assigns the city's claims against The Travelers Companies, which insured the city at the time of the investigation but has denied responsibility for the city's damages in this case.

In the settlement, the officers "deny having engaged in any wrongful acts in their respective roles in the investigation or prosecution of Ryan, including each and every allegation of fabrication of evidence or pressuring witnesses."

The outcome of the trial, however, was not as certain as the officers' sense that they had done nothing wrong, Westbrook said and the settlement confirms.

"Officers recognize that their chances of prevailing in the Court of Appeals on their affirmative defense of qualified immunity are uncertain, and that if they do not prevail, that Ryan will have a jury trial in the District Court on his claims against them, and the outcome of any jury trial is uncertain," the settlement states.

That meant the officers would have been personally liable for the result if Ferguson won more than the insurance company policy limit, Westbrook said.

"That scared us," Westbrook said. "None of us have a lot of money."

Once he receives the payment from Columbia and Clarendon, Ferguson has agreed not to pursue any further claims or attempt to collect any money personally from the officers, the settlement states.

The city issued a news release Tuesday that supports the officers and explains that the settlement was necessary "to avoid a lengthy, difficult, and uncertain trial on the issue of liability, in which some of the insurers that issued policies to the City of Columbia have denied that they have a duty to cover the officers ..."

Like Westbrook, the city denied the officers did anything wrong.

"The officers involved in the litigation maintain that they conducted a thorough, professional and ethical investigation into the murder of Kent Heitholt and deny they violated Mr. Ferguson's constitutional rights," according to the news release.

The officers decided not to force a trial on liability because of the potential for a large judgment, Westbrook said. They believed they had a strong case, but their attorneys explained that was not enough.

"They said the question is whether Kathleen Zellner," Ferguson's attorney, "can lead a jury to believe you did something wrong," Westbrook said. "The other thing that plays into that is that in this day and age there is a lot of anti-police sentiment."

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