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State reconsiders, pays Green

07/31/03

Gabriel Baird
Plain Dealer Reporter

Ohio officials changed their minds yesterday and agreed to give Michael Green \$523,186 - part of what he is owed for the nearly 13 years he spent in prison for a rape he didn't commit.

"It's the right thing to do," Ohio Attorney General Jim Petro said yesterday.

The Budget and Management Office's Controlling Board still must authorize Green's deal, which was approved in the state Court of Claims. The board meets Aug. 18, and the 37-year-old Cleveland man who was freed by DNA evidence in October 2001, could receive a check of \$375,000 that day, Petro said.

The remainder would be paid with interest through an annuity. He would receive 240 monthly payments of \$2,200 beginning in 2020. He chose that option so it would act as a retirement fund, his lawyer, Alphonse Gerhardstein, said.

Green's story was featured last year in a Plain Dealer series titled "The Burden of Innocence," which was written by Connie Schultz. After the story was published, the real rapist confessed and was proven guilty by DNA evidence.

Yesterday, Gov. Bob Taft also reduced the chances of repeating what happened to Green by signing a bill giving inmates who have maintained their innocence greater access to DNA testing.

Petro acknowledged that his opinion about paying Green was different a few months ago.

Then, his office filed court documents to stop the payout - stipulated by state law - of \$40,330 per year served on a wrongful conviction.

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The reason: Like others who have been exonerated, Green also had filed a lawsuit against the state for lost wages.

State officials disagreed with Green over how much money Green would have earned over the years and is due in lost wages.

In May, Petro agreed that Green was owed the money for his wrongful conviction. "But to give it to him now means we would lose leverage on the lost-wages argument," he said then.

Petro said he changed his mind after reading Schultz's stories and subsequent columns about Green and receiving hundreds of calls, e-mails and letters from readers.

"This would never have come to my attention had it not been for a little publicity," he said.

The money will come from a combination of an insurance claim and tax dollars.

Green's lost-wages case is pending. Gerhardstein, of Cincinnati, would not say how much they are seeking, saying it would hurt negotiations.

Attorney's fees will not be taken out of Green's settlement. The law requires the state to pick up the tab, which could be part of a settlement on Green's lost wages or he could take further legal action, Gerhardstein said.

Green's success in winning the compensation before the lawsuit over lost wages is settled could set a precedent for others who have been wrongly convicted.

"We're going to look for early resolution in all of these cases," Petro said.

That could include Jimmy "Spunk" Williams of Akron. He served 10 years for a rape he did not commit. He could not be reached for comment, but his attorney, Edward Gilbert, said even a "partial resolution" would help his client.

However, neither Green nor Williams is likely to approach the figure paid to James Newsome, 48, of Chicago.

Newsome proved that Chicago police had no reason to arrest him in the first place and won a federal civil rights case in October 2001 worth \$1 million for each of 15 years he served for a murder and an armed robbery he did not commit.

Newsome received additional reparations for his imprisonment from Illinois as required by law. "I'm quite sure that is the largest civil rights verdict in the United States," said Rob Warden, executive director of the Center for Wrongful Convictions at Northwestern University.

Newsome said that if he met Green, he would offer a warning about his new riches. "He's going to have a lot of hangers-on," Newsome said. "As soon as his money is gone, they'll be gone."

Over the years, at least 30 people have been exonerated in Ohio and more than 700 nationwide, Warden said.

The Plain Dealer series about Michael Green, "The Burden of Innocence," can be found at www.cleveland.com/burden.

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