

New York City to Pay \$2.75 Million in Wrongful-Conviction Settlement

By Benjamin Weiser

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New York City has agreed to pay \$2.75 million to settle a wrongful-conviction lawsuit, the city's Law Department said on Thursday, in a case that prompted philosophical questions about the meaning of a guilty plea.

The plaintiff, Michael Poventud, 45, served nine years in prison before his 1998 conviction — for the attempted murder and attempted robbery of a Bronx livery driver — was overturned on grounds that the authorities withheld evidence from his lawyers that could have helped his defense.

Rather than face a retrial, Mr. Poventud pleaded guilty in 2006 to attempted robbery in the third degree, acknowledging that he had been armed and had tried to rob another person. He received a one-year sentence and was released immediately.

But Mr. Poventud continued to maintain his innocence, his lawyers said, and pleaded guilty in order to get out of prison, where he had been subjected to abuse by other inmates and had twice tried to commit suicide.

The guilty plea, as it turned out, became a legal hurdle when Mr. Poventud sued the city and claimed his rights were violated in the 1998 trial. A judge, Deborah A. Batts of Federal District Court in Manhattan, dismissed the suit in 2012, finding that it was barred because Mr. Poventud had pleaded guilty to conduct that “necessarily required his presence at the scene of the crime.”

Success in his lawsuit “would logically imply the invalidity” of his guilty plea, Judge Batts wrote.

But in 2013, the United States Court of Appeals for the Second Circuit, which typically rules in three-judge panels, overturned Judge Batts’s decision by a 2-to-1 vote, saying Mr. Poventud could sue.

The debate did not end there. In an unusual move, the full or “en banc” appellate court, with 15 judges participating, reviewed the matter, and last year, a majority of the judges agreed that Mr. Poventud could sue.

“Poventud’s claims are not the stuff of prison idleness or self-absorption,” the opinion’s author, Judge Richard C. Wesley, wrote. He “accepted an offer from the state to plead to a lesser offense; he now seeks to recover from those who violated his right to a fair trial.”

A judge who concurred in the ruling, Gerard E. Lynch, wrote in a separate opinion, “The choice of freedom in exchange for an admission would be easy for a guilty man, but even an innocent one would be hard-pressed to decline the prosecution’s offer.”

The conviction of Mr. Poventud, who once used the first name Marcos, stemmed from the 1997 shooting of Younis Duopo, a cabdriver. The settlement was noted in papers filed in court late on Wednesday.

Mr. Poventud, speaking by phone on Thursday, thanked his lawyers and said, “Nothing can give me back those years of my life I lost, but I’m happy to put this behind me.”

In a statement, the Law Department said, “This case raised a novel legal issue concerning the resolution of the plaintiff’s criminal charges and its effect on his civil claims.” The department added that in light of the appellate rulings allowing the suit to go forward, the agreement was “fair and in the best interest of the city.” The city admitted no wrongdoing.

One of Mr. Poventud's lawyers, Julia P. Kuan, said on Thursday, "We were not challenging the validity of the guilty plea." Another of his lawyers, Joel B. Rudin, said, "We had an innocent person who had pleaded guilty in order to escape more trauma in prison."

"A plea bargain is a compromise that ends the criminal litigation," Mr. Rudin added, "but it doesn't necessarily resolve the truth in God's eyes."

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