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# Exonerated Inmates Fight Lawyer's Lobbying Fees

By **JOHN SCHWARTZ**

DALLAS — If you are a wrongly convicted inmate in Texas and are exonerated, you stand to receive a very rewarding apology from the state.

Steven C. Phillips, proved innocent of rape by DNA tests in 2008 after serving nearly 25 years, got a \$2 million lump sum payment, with substantial annual payments to come.

But then came a legal bill: \$1,024, 166.67.

The tab did not come from the lawyer who helped free him. Instead, it came from the lawyer he hired afterward to sue the City of Dallas and the state for his [wrongful imprisonment](#), with an agreed contingency fee of 25 percent of any award.

But no suit was filed on Mr. Phillips's behalf. Instead, the lawyer, Kevin Glasheen, lobbied the state Legislature to pass a bill that in 2009 increased the payout to exonerated prisoners. What had been a simple payment of \$50,000 for every year served became \$80,000 for every year behind bars; the bill also called for paying freed inmates an additional \$80,000 a year. Those who had been exonerated still had the option of suing, but the richer terms for settling outright significantly shifted the balance of the decision.

It was on that basis, as a successful lobbyist, that Mr. Glasheen claimed a share of Mr. Phillips's compensation for himself and another lawyer.

Mr. Phillips was astonished.

"I was trembling," he said. He called his mother and said, "I'm not fixing to give those dudes a million bucks." So he [sued](#) Mr. Glasheen.

So did Patrick Waller, another exonerated inmate billed by Mr. Glasheen who had served nearly 16 years after a false conviction for aggravated robbery and kidnapping. And now [so](#)

has the state bar association, which asserts that the fees are “prohibited by law” and “unconscionable.”

The disputes have bitterly divided the community of lawyers and activists who struggle to help the falsely accused, and they have brought an uncomfortable spotlight on the practices of some within the Innocence Project of Texas, whose co-founder and chief counsel, Jeff Blackburn, is in line to collect \$413,000 of the Glasheen fee for referring the Phillips civil case to him.

To Mr. Glasheen, the cases are “a simple fee dispute” and not unusual. “When the money came in, they didn’t want to pay us,” he said.

Mr. Glasheen predicted that the lawsuits from his former clients would be dismissed, and that the bar’s petition to the court would evaporate. “Meanwhile,” he said, “I’ve got drug behind the pickup truck.”

Mr. Phillips’s lawyer in the suit against Mr. Glasheen, Randy Turner, called Mr. Glasheen’s actions “obscene.” The Innocence Project “does great work,” he said, but argued that Mr. Glasheen — who in turn sued Mr. Turner for pursuing the case — “wants a million dollars for being a lobbyist when he wasn’t hired to be a lobbyist.”

In fact, the word “lobbying” does not appear in the contracts, and perhaps with good reason. Much of the legal world operates on contingency fees, allowing people with no money to get to court. The lawyer takes on the financial risk and, if successful, reaps a healthy chunk of the reward. But in Texas it is a felony to lobby the Legislature on a contingent-fee basis, because it can skew the incentives underlying public policy.

Mr. Glasheen did not even file the one-page state compensation forms for Mr. Phillips and Mr. Waller, who filled them out themselves. The state bar suit notes that the form can be completed by “a lay person with no legal skill.”

Mr. Turner also disputed Mr. Glasheen’s accounting of the money owed to him, which includes a portion of a lifetime’s worth of annual \$80,000 payments. Under the 2009 law, those payments end when the former inmate dies, or if he is convicted of another felony. “Glasheen is attempting to charge Steven 25 percent of the amount that Steven Phillips might, someday, recover if all goes well and he lives to a ripe old age,” he said. The exoneration bill that Mr. Glasheen helped to pass expressly prohibits “assignment” or “encumbrance” of anticipated annuity money.

Charles Silver, a professor at the [University of Texas](#) law school, said that whenever a contract is vague, “the fact of the matter is the law tends to favor the clients.” He said he doubted that any court would allow a contingency fee for lobbying, despite Mr. Glasheen’s contention that he operated under a narrow judicial exception to the law. “The Legislature has declared it against public policy,” Professor Silver said.

Mr. Glasheen said that all of his clients understood that the contracts covered fees for the lobbying effort — especially Mr. Phillips, whom he called “a sociopath” conditioned by the prison system to lie to survive. In [a letter](#) to fellow lawyers, Mr. Glasheen said his firm “spent thousands of hours and hundreds of thousands of dollars advancing this group of wrongful conviction cases.”

In [an affidavit](#) he filed in the case, Mr. Glasheen stated, “The contingency nature of the fee as well as the amount is reasonable and not unconscionable.”

In an interview, Mr. Glasheen noted that he had a dozen exonerated clients who had paid \$5 million in fees, and that he pursued the lobbying effort as an alternative to litigation, and one that greatly benefited his clients. He said that he could have opted for the bar complaint to be heard quietly by a local panel, but demanded a public hearing because it would allow him to put on evidence. He contends that the bar is essentially passing on the complaints of Mr. Phillips and Mr. Waller without “any meaningful review.”

Maureen Ray of the State Bar of Texas disagreed with Mr. Glasheen’s characterization of its procedures. “A degree of investigation does go on,” she said.

Mr. Blackburn, the Innocence Project lawyer, defended his decision to bring Mr. Glasheen into exoneree cases as a way to get the biggest state payment for the clients. Disparaging the concerns of “do-gooder civil rights lawyers,” he said, “when you’re trying to get the most money, you’ve got to find the guy who’s best at doing that.” Getting paid is the reward of success, he argued. “If you can’t afford to practice this kind of law, nothing is going to happen.”

State Representative Rafael Anchia, who sponsored the Texas measure that increased the payments to exonerated prisoners, introduced [a new bill](#) in the Legislature’s current session that would expressly prohibit the kind of contract that Mr. Glasheen is defending and allow only a simple hourly fee for helping to file the forms. “I’m closing the door on that,” Mr. Anchia said.

Meanwhile, a trial date in the contract dispute, set for June, has been pushed back to January. Mr. Waller said the delay did not worry him. "I'm used to waiting," he said. "I've waited for a better thing, for a longer time."