

INFLUENTIAL APPELLATE ADVOCATES

Michael J. Abrams, William G. Beck and Alexander T. Brown Lathrop GPM



Michael J. Abrams

William G. Beck

Alexander T. Brown

Attorneys Michael Abrams, William Beck and Alexander Brown won an important victory and changed legal precedent in 2019 when they obtained insurance coverage for a \$16.5 million settlement for the families of three Mississippi men who were wrongfully convicted of a rape and murder they did not commit.

The case dated back to May 1979, when Eva Gail Patterson was raped and murdered in front of her 4-year-old child in Eatonville, Mississippi. Police eventually coerced confessions from three black men, Phillip Bivens, Bobby Ray Dixon, and Larry Ruffin, who were sentenced to life in prison and spent a collective 83 years behind bars.

Bivens and Dixon's convictions were set aside in 2010, however, when DNA evidence pointed to another culprit. Dixon died soon after his release from prison, and Bivens died in 2014. Ruffin died in prison in 2002 but was exonerated posthumously in 2011. The three men's families then sued Forrest County,

Mississippi, the city of Hattiesburg and several law enforcement agencies and officers, alleging that the defendants beat the men to obtain confessions, fabricated evidence, withheld exculpatory evidence and prosecuted them without probable cause.

Abrams, Beck and Brown, who lead Lathrop GPM's civil rights insurance recovery practice, filed the civil lawsuit along with attorneys from the well-known civil rights litigation firm Neufeld, Scheck & Brustin.

The underlying case settled in 2016 for \$16.5 million. Prior to the settlement, several insurers, including Scottsdale Insurance Company and Travelers Indemnity Company, filed a declaratory judgment action alleging they had no duty to defend the county.

The companies or their predecessors had provided law enforcement policies to the county during portions of the three men's incarceration, but neither covered the county at the time the men were arrested.

"You'll have people incarcerated from

the '70s, '80s or '90s, and a lot of the entities who are responsible for their wrongful convictions have very little assets except for their insurance policies," Brown said. "And so the law prior to our decision was that only the policy at the time of conviction would provide coverage."

In May 2019, however, a 5th U.S. Circuit Court of Appeals panel said the two companies had a duty to defend Forrest County, based on specific language in their policies. The court held that both the Scottsdale policy, which was in effect from 1985 to 1986, and the Travelers policy, which was in effect from 2005 to 2011, were "injury-based."

As a result, the estates could recover for injuries the men suffered in prison during the policy periods, even if the wrongful acts that put them in prison occurred long before the insurance policies were issued. The plaintiffs alleged Bivens, Dixon and Ruffin suffered everything from assaults to serious diseases while incarcerated.

"That case was an open wound in that community for 40 years that they knew

an injustice had been done," Abrams said.

The three attorneys said it was powerful to watch families of the three men use funds from the settlement to honor their memories, including building and naming a park after one of them.

"I went to law school for this. I want to make sure that justice actually occurs," Beck said. "This is the opportunity we have to take something that is absolutely wrong and help fix and help provide some compensation to people."

Since 2004, Abrams, Beck and Brown — working with other civil rights firms nationwide — have helped to recover more than \$190 million for wrongfully convicted individuals.

"I think that working on insurance concepts in particular is very intellectually challenging," Brown said. "Constitutional law is an extremely complex and complicated matter. It's about as intellectually demanding and rewarding as any practice out there."

— Dana Rieck

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