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Texas Court Acts to Clear 38 In Town-Splitting Drug Case

By SIMON ROMERO with ADAM LIPTAK

TULIA, Tex., April 1 — Conceding that they had made a catastrophic mistake in relying solely on the uncorroborated testimony of an undercover officer, prosecutors moved today to overturn the convictions of 38 people, almost all of them black, who were caught in a series of drug arrests in 1999 that tore this town apart.

A judge agreed with the prosecutors, and defense lawyers, that the Texas courts should vacate every conviction arising from the drug sting, including those in which the defendants pleaded guilty.

The extraordinary turnabout followed hearings here last month in which the undercover officer, Thomas Coleman, and many other witnesses testified about his troubled law enforcement career, unorthodox methods, pervasive errors, combustible temperament and apparent racism.

But the drug prosecutions were fueled by more than one unreliable officer, defense lawyers said. The prosecutions were, these lawyers said, the consequence of poisonous small-town race relations, a misguided desire to claim victories at any cost in the war on drugs and a legal system in which poor defendants did not have a fighting chance against thin but confident testimony from a single police officer.

"It is established by all parties and approved by the court that Tom Coleman is simply not a credible witness under oath," Ron Chapman, a retired state court judge who presided over the hearings, said from the bench today. Judge Chapman said he would recommend that a higher court overturn the convictions of everyone convicted in the sting. In the meantime, the 16 people still in prison will remain there.

Roderique S. Hobson Jr., a lawyer in



David Bowser for The New York Times

Four prisoners returning from court in Tulia, Tex., for a recent hearing on their convictions in a 1999 drug sting operation, are, from left, Joseph Moore, Freddie Brookins Jr., Jason Williams and Chris Jackson.

Lubbock who was recently brought in as a special prosecutor on the case, said, "What we've seen here is the beginning of a vindication of the system."

Throughout this town of 5,000 perched on the flatlands of the Texas panhandle between Amarillo and Lubbock, there were displays of surprise and gratification after today's developments. Outside the courthouse, Pattie Brookins, the mother of Freddie Brookins Jr., one of the four men challenging their convictions on drug charges in last month's hearings, could not stop weeping as she stood in front of the jail where her son was still being held.

"It's been a long time coming," Ms. Brookins said. "I guess this is what satisfaction feels like."

Swisher County, of which Tulia is the seat, also agreed to pay \$250,000 to the 38 defendants. Defense lawyers said the money would be allocated based largely on how long the defendants spent in prison. In exchange, the defendants gave up the right to file civil suits against the county and its employees, including the sheriff here, Larry Stewart, and the original prosecutor, Terry D. McEachern. The agreement probably precludes suits against Mr. Coleman.

Forty-six people were arrested in the drug sweep, but several of the cases were dismissed as Mr. Coleman's evidence unraveled.

Seven of the 38 who were convicted based on his accusations went to trial, receiving sentences of at least 20 years.

Fourteen other people received prison sentences after pleading guilty. Twelve pleaded guilty and were sentenced to probation or had earlier probation revoked. Two people pleaded guilty to misdemeanors and were fined. Three had cases dismissed but had probation revoked in other counties while the Tulia charges were pending.

Defense lawyers said they might pursue suits against others, including the Panhandle Regional Narcotics Trafficking Task Force, the federally financed consortium of 26 Texas counties that helped hire and supervise Mr. Coleman.

Judge Chapman granted a request by Mr. McEachern and two other local prosecutors that they be allowed to withdraw from the cases based on what he described as Mr. Coleman's apparent perjury. Mr. Hobson, the new special prosecutor, made a similar request, but Judge Chapman asked him to continue to represent the state in the cases.

Sheriff Stewart, who hired Mr. Coleman in January 1998 as an undercover officer, did not allow reporters to visit the four inmates in the county jail today but in telephone interviews the men reflected on their experience with Swisher County's legal system.

None of the four men said that they planned to stay in Tulia, which has a small African-American population of about 400.

Joseph Moore, 60, a hog farmer who Mr. Coleman said was the kingpin of cocaine trafficking in Tulia, said he hoped to move to a small town nearby in New Mexico or Oklahoma where he hoped to get his health in order.

"The last 45 months in prison have been hell for me," Mr. Moore said. "My diabetes started to act up and I almost died in jail. I don't know if anyone can understand what it means to almost die alone, incarcerated by mistake."

Christopher Jackson, who turns 31 on Wednesday, said he hoped to pass a high school graduation equivalency test and planned to start his own welding business. "This is a very blessed moment," Mr. Jackson said.

Jason Williams, 24, said he was planning to study business management to eventually open his own electronics store. "I want to make this dusty little town into just a memory," Mr. Williams said.

Sheriff Stewart said in a statement, "The agreement reached among the parties

involved is not about guilt or innocence but is intended to end the controversy that surrounds these cases."

For a small community that had nearly a tenth of its black population incarcerated on drug-related charges, the drug sting masterminded by Mr. Coleman has left an enduring mark.

Tynisha Winkfield, interviewed at a Pizza Hut restaurant where people in the courtroom repaired to celebrate the settlement over lunch, said her boyfriend, Jerrod Ervine, and uncle, Billie Wafer, had been jailed and subsequently released as a result of the sting.

Another uncle, Kenneth Powell, is one of 16 people still in prison because of the sting or as a result of probation violations related to drug charges originating from Mr. Coleman's undercover operation.

Dubious testimony and a small town's poisonous race relations.

"Kids have lost parents and families have lost money because of this," said Ms. Winkfield, who works as a bartender at the Country Club, a bar on the outskirts of this dry town whose clientele is entirely white.

Lawyers for the defendants, from Amarillo, New York and Washington, expressed satisfaction at today's developments and dismay at how long the process had taken.

"It came later than it should have come, but at least it came," said Mitchell E. Zamoff, a lawyer with Hogan & Hartson in Washington. That firm and **Wilmer, Cutler & Pickering**, also in Washington, represented two of the defendants. Others were represented by the NAACP Legal Defense and Educational Fund and Jeff Blackburn, a lawyer in Amarillo.

Mr. Coleman testified last month that although most of the supposed drug transactions were in public places, he did not wear a recording device, arrange for video surveillance, ask anyone to accompany him, ask anyone to observe the deals or fingerprint the plastic bags containing the drugs. He worked alone and did not tape record his drug buys. No drugs,

weapons or large sums of cash were found when 46 people, more than 10 percent of Tulia's black population, were arrested early in the morning on July 23, 1999.

Mr. Coleman also testified that he made routine use of the most charged of racial epithets.

The Texas Court of Criminal Appeals, the state's highest court for criminal matters, is not required to accept the parties' request or Judge Chapman's recommendation. When the appeals court ordered last month's hearings, it indicated that much will turn on whether there was other evidence of guilt and whether defense lawyers were told enough about Mr. Coleman by prosecutors to try to discredit his testimony at their client's trials in late 1999 and early 2000.

Defense lawyers will spend the next few weeks gathering further information on those points. They will submit the information, as proposed findings of fact, to Judge Chapman for his consideration and approval. The findings will serve as the basis for Judge Chapman's recommendation to the appeals court.

Legal experts cautioned that the appeals court can be unpredictable and does not always accept even requests joined in by all parties.

The appeals court could reject Judge Chapman's recommendation in some or all of the cases, overturn the convictions outright or order new trials. But given their concessions about Mr. Coleman today, prosecutors are unlikely to pursue retrials even if the appeals court allows them.

Mr. Coleman, who was not at the courthouse today, could not be reached for comment. His phone number is unlisted. Mr. McEachern, the original prosecutor, did not respond to a message seeking comment.

At a small housing project behind the Sales Barn, a feedlot where auctions of livestock from surrounding ranches are held each week, talk about financial awards or the legal complexities of the settlement seemed far away. Tina S. Yarlrough, a 38-year-old housekeeper, wondered if life in Tulia could get back to normal.

"It used to be pretty calm around here," Ms. Yarlrough said as she sat on her porch swapping jokes with her neighbors. "Then it got to the point where you couldn't have a boyfriend or a girlfriend with so many people locked up. The only ones left were your kinfolk."