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LOCAL

Man convicted in B.B. King robbery in Memphis freed after 20 years in prison. Here's why



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"Thank you," Artis Whitehead said to the judge as he walked out of the courtroom Friday morning.

"Thank you, God," he said quietly as tears ran down his cheek.

Whitehead, after spending nearly two decades behind bars, had just been told by Shelby County Criminal Court Judge Jennifer Fitzgerald that he would be released later in the day.

Fitzgerald's ruling comes months after Whitehead's attorneys, from the Tennessee Innocence Project, argued that he should be granted a new trial citing advances in eyewitness identification sciences, Brady violations by the Memphis Police Department and original prosecutor and a dubious CrimeStoppers tip.

The Shelby County District Attorney's Office said it would not re-try the case, meaning Whitehead's record will show as if he was charged and had his case dropped.

When that moment comes, Artis Whitehead will officially be found innocent of the crime he spent 20 years in jail and prison for.

Whitehead, now 60, was convicted of a 2001 robbery at B.B. King's Blues Club on Beale Street. According to victims of the robbery, a man had walked into the building and into the basement where the restaurant kept its safe early in the morning. As employees walked downstairs, the robber would ask them to open the safe and tie them up at gunpoint when they said they could not.

At some point, an employee freed himself and grabbed at the robber's gun. The gun fired, and the bullet grazed the man's head. The robber then fled.

No leads turned up as police began their investigation until detectives received a CrimeStoppers tip naming Whitehead as the robber.

He was arrested, charged and then convicted in 2004. That conviction hinged upon two eyewitnesses identifying Whitehead as the man who robbed them. His lead attorney in the postconviction matter, Tennessee Innocence Project Executive Director Jessica Van Dyke, said in an early September hearing that those witnesses were faulty and that Whitehead's stature was completely different from initial descriptions from the scene. Seven other witnesses either could not or did not identify Whitehead.

One of the witnesses who did identify Whitehead would later say her identification could have been "human error."

Adding to the doubt of Whitehead's involvement in the robbery was the Innocence Project's discovery that the alleged CrimeStoppers tip that named Whitehead as the person who committed the robbery was a police informant.

And not an accurate one, at that.

At the time MPD received information from Gregory Jones, the tipster, he was facing federal prosecution for a robbery of his own. Jones, according to the Innocence Project, was regularly coming to the police to report people for crimes in an attempt to trim his impending prison sentence.

He had previously named suspects in a murder, and when police followed up on that lead, found that the two men had solid alibis.

But when it came to naming Whitehead, police did not acknowledge Jones as the source of that information. Instead, he was told to call CrimeStoppers, where his identity would be kept anonymous. According to the Innocence Project, who spoke to Jones for this case, Jones made the call from MPD's robbery bureau and from a detective's cell phone.

In her 93-page ruling, Fitzgerald found that the original prosecutor on the case, former Shelby County DA Amy Weirich, and the MPD detectives' failure to disclose Jones' name, and that he had previously levied false allegations, constituted a Brady violation.

"Detective Bart Ragland testified at two federal hearings about how Mr. Jones had implicated innocent people in other crimes," Fitzgerald wrote in the ruling. "Yet the Memphis Police Department nor the state disclosed this information. The court finds that the MPD officers suppressed this information because they knew that there were problems with Mr. Jones as a

witness. Even more persuasive of MPD's knowledge, Detective Bart Ragland testified three days before the petitioner's (Whitehead's) sentencing hearing about how Gregory Jones had lied. Furthermore, MPD's actions extend to the State of Tennessee. The Tennessee Supreme Court has held that 'the prosecutor is responsible for 'any favorable evidence known to the others action on the government's behalf in this case, including the police.'"

In addition to the Brady violation, Fitzgerald listed five quotes from the original trial's closing statements made by the prosecution that she found to be improper that the defense counsel did not object to. An additional one was found to not be improper, but that the defense attorney was deficient for not objecting to it.

Fitzgerald also said that she found "the evidence at trial against" Whitehead "minimal." She also said that she agreed with Van Dyke that a conflict of interest existed for Whitehead's initial trial lawyer. That lawyer, while representing Whitehead, was working in a law office where another attorney represented Jones in his federal case and was trying to have time reduced from his sentence.

A second conflict of interest existed during Whitehead's direct appeal of his conviction. The attorney that was hired to write the appeal itself was representing Jones in his federal case at the same time.

Whitehead will be released later Friday from Whiteville Correctional Facility. He will be released on his own recognizance, with no objections from the Shelby County DA's Office.

His next court appearance will be on Jan. 31.

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