

# The Arab Tribune

Monday, August 17, 2009 - Arab, Alabama

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**MONDAY AUGUST 17, 2009** Last modified: Monday, August 17, 2009 9:55 AM CDT

## Morrow murder case sent back to circuit court

By CHARLES WHISENANT - *The Arab Tribune*

Lynn Morrow's appeal of manslaughter and attempted murder convictions is headed back to Marshall County Circuit Court based on the alleged statements of a former Arab police officer who is in prison for attempting to hire a hit man to kill his wife.

Morrow was convicted for the August 2000 shooting death of his father-in-law and shooting at his ex-wife in Arab.

The Alabama Court of Criminal Appeals Wednesday ruled that Marshall County Circuit Judge Tim Jolley must allow two claims to Morrow's 2008 appeal of his convictions. Following a hearing last October, Jolley denied the two claims.

Those claims are:

- The prosecution did not disclose that shortly after the shooting, Arab officer Brian Phelps witnessed Morrow's ex-wife, Regina, provide a statement to law enforcement that contradicted the testimony she presented at trial.
- The prosecution withheld evidence that, at the request of Regina, law enforcement conducted a warrantless search of Morrow's residence.

Morrow's attorney, Jake Watson of Huntsville, said Thursday that Phelps would testify that, moments after the shooting, she told police that she didn't see Morrow shoot her father because she had already ran out of the building.

At Morrow's trial, she testified that she did see Morrow shoot her father.

Seven ACCA judges concurred on the ruling. "There is reasonable likelihood that the inconsistency between Regina's testimony and her alleged statement to officer Phelps could have affected the judgment of the jury," Presiding Judge Kelli Wise wrote.

Assistant District Attorney Everett Johnson, who prosecuted the case, said after the October hearing that Morrow had been given all evidence that he was entitled to.

Marshall County District Attorney Steve Marshall disagrees with the ACCA's ruling.

"The court has remanded the case on a technical issue," he said. "The question is whether or not Judge Jolley should have summarily dismissed Morrow's petition without a hearing. We think Judge Jolley acted properly, but the appellate court disagrees.

"They didn't rule on the merits of Morrow's claim or whether or not there is even a factual basis to his claim, only that it shouldn't have been summarily dismissed. We will be ready to address those claims."

Phelps was convicted in Marshall County Circuit Court last year of attempting hire a hit man to kill his ex-wife and her boyfriend. He was sentenced to 25 years in prison.

According to the Alabama Department of Corrections website, Morrow and Phelps are currently incarcerated at Limestone Correctional Facility near Athens. Morrow's release date is June 2035. Phelps' release date is May 2030.

Because he is a former police officer, Phelps is segregated from the general population at the prison. It isn't clear if they could have "chance meetings" in the prison.

At last year's appeal hearing, Watson argued that Morrow's trial attorneys did not properly investigate the case, nor did they call several witnesses who might have supported Morrow.

He also argued that Morrow's attorneys did not obtain expert witnesses or adequately prepare for trial.

Jolley ruled then that Morrow's claims were "totally without merit."

Watson tried in October to have the appeal amended to include the two new claims, but Jolley denied his request.

The ACCA has basically overturned that denial and has instructed Jolley to rule after receiving "evidence by affidavits, written interrogatories, depositions or in a hearing," and return that decision to the ACCA within 56 days."

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