

The Charlotte Observer

Claim: Lineup was rigged

Lawyers add allegation to appeal of Monroe man's sexual abuse conviction

Investigating detective defends use of photos shown to accusers

BY ROBERT F. MOORE
Staff Writer

Attorneys trying to free a Monroe man convicted in one of the state's largest child sex abuse

cases filed court papers Monday saying that police used improper photo lineups that led children to identify James Parker as their attacker.

The 1990 lineups contained photographs of people who looked nothing like Parker, including black men with dreadlocks and white men, according to documents filed Monday in Union County. Attorneys say Parker was the only man in the



Parker



Rogers

lineups who fit the description police were looking for - a black man with a box haircut.

James "Sonny" Rogers, the re-

tired Monroe detective named in Monday's court filing, said he followed department procedure. He tried to select photographs of people who shared similar characteristics.

"That lineup stood up in court," he said Monday. "If it stood up then, it should stand up now."

The new allegations, part of an amended motion for appropriate relief, come two weeks after

Charlotte attorneys Noell Tin and Melissa Owen initially filed court papers seeking Parker's release after more than 12 years in prison.

The documents say that all three reported victims who testified against Parker as children have now recanted, saying he never sexually assaulted them. They also allege that prosecutors denied Parker his constitutional rights by withholding evidence

SEE PARKER | 6B

Claim: Police rigged suspect photo lineup

Parker from 1B

that might have exonerated him.

Parker was convicted of sexually assaulting four boys, ages 5 to 12, and sentenced to three life terms plus 60 years. He was convicted in two 1991 trials, primarily on the testimony of children. No physical evidence linked him to the reported crimes near Monroe's Icemorlee Apartments. A convicted thief and robber, Parker maintained his innocence in the sexual assaults from the time of his arrest.

The Observer first raised questions about Parker's guilt in December. The newspaper found 15 reported victims or witnesses to the 1990 attacks who now say the crimes never happened or weren't committed by Parker. The four-month investigation also found that jurors never heard the children's widely differing descriptions of attackers.

Parker's attorneys also filed an affidavit Monday from a reported

victim, now 20, who said he never identified Parker to police, even though police records from 13 years ago show he did.

"I distinctly remember being given a photo lineup by the police officer on May 21, 1990, but I did not recognize anyone in it," the affidavit says. "I have been shown the police report that stated I identified James Parker, but this is not true. I did not identify anyone in the photos placed before me."

The 20-year-old didn't testify as a child, but defense attorneys said in an interview that his affidavit reveals procedural flaws that led to Parker's arrest.

In the affidavit, the man also said that he may have nodded "yes" when asked as a child if he were sexually assaulted. The man is hearing impaired and says he often didn't understand questions he was asked as a child.

"I had no reason to pad my findings," Rogers said. "If my report says he identified Parker, then he identified Parker. I know he was deaf, but he read lips very well. We were able to communi-

cate."

Asked about the recantations by the three reported victims who testified against Parker, Rogers said:

"If they're telling the truth now, let him go."

Critical eye on recantations

Motions for appropriate relief are rarely granted in North Carolina, especially in felony cases without DNA evidence clearing the defendant, law experts say.

Legal experts also say judges generally view recantations with skepticism.

The three reported victims who testified against Parker, and have recanted according to court documents, are now ages 20, 22 and 25. Their affidavits filed last month say they lied because they'd heard stories about Parker attacking other children. They thought they were doing a good deed to help convict him.

"People around me were saying that we needed to lock up James Parker so that he couldn't do this to anyone else," said Curtis

Moser, 20, in an affidavit.

Parker's motion for appropriate relief should next be assigned to a Superior Court judge, who can dismiss his request, grant it, or order a new trial or hearing. The process can take from a couple of months to more than a year.

In addition to the recantations, portions of the documents filed July 28 allege prosecutors violated Parker's constitutional rights by allowing false testimony and failing to provide the defense with the name of another man at least five children identified as their attacker.

Current and former prosecutors declined comment on the motion's allegations. District Attorney Kenneth Honeycutt said last month that his office would conduct an investigation after the motion was filed.

Parker's case began getting attention after he wrote the Innocence Project at Duke University's law school in 1999.

Robert F. Moore: (704) 358-5934;
rfmoore@charlotteobserver.com.