



NEWS RELEASE

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DISMISSAL OF STATE V. ERIC KELLEY & RALPH LEE

PATERSON, NEW JERSEY:

APRIL 6, 2018

Passaic County Prosecutor Camelia M. Valdes announced today that the Office has moved to dismiss the matters of State v. Eric Kelley and Ralph Lee. The matters will not be re-tried.

The decision to not re-try these defendants was made after consideration of the recent Appellate Division opinion affirming the prior decision of the Honorable Joseph A. Portelli, J.S.C., to grant new trials to both defendants. The decision to not re-try these matters was made after consultation with the family of Tito Merino – who attended both trials in 1996 and who have attended recent post-conviction hearings – and upon consideration of the fact that both defendants in this matter have served almost 25 years in custody.

On July 28, 1993, Tito Merino was stabbed and bludgeoned to death during the middle of the afternoon while working at his family's business - Victoria Video - located at 432 Union Avenue in Paterson.

The passage of nearly 25 years since the date of the crime presents difficult challenges with re-trying these matters. Such a lengthy passage of time impacts witness availability, cooperation and credibility.

The Passaic County Prosecutor's Office has aggressively pursued its legal right to appeal the decision of Judge Portelli to grant these defendants new trials. While we respectfully disagree with Judge Portelli's ruling, and with the Appellate Division's decision, we of course respect the opinions and the process that produced those outcomes.

Neither Judge Portelli nor the Appellate Division has declared these men innocent - only that they were entitled to new trials.

Indeed, Judge Portelli states the following on page 7 of his attached opinion:

“I wish to emphasize that this decision in no way, shape or form, is to be considered that my opinion is that the defendants are not guilty.”

Further, the Appellate Division states the following on page 68 of its attached opinion:

“In sum, we have not decided these men are innocent. We only conclude the trial court did not err in granting them another opportunity, with the insight of new DNA results, to make the State prove their guilt beyond a reasonable doubt.”

In sum, the Passaic County Prosecutor’s Office has determined that, considering the totality of the circumstances, to re-try these matters 25 years later would not be in the interests of justice.

For media inquiries concerning this case, contact Senior Assistant Prosecutor Eileen Kane of the Passaic County Prosecutor’s Office at EKane@passaiccountynj.org or at (973) 837-7706.