

http://www.philly.com/philly/news/breaking/20131109_DA_clears_way_for_release_of_lifers_awaiting_new_trial.html

DA clears way for release of lifers awaiting new trial

JOSEPH A. SLOBODZIAN, *INQUIRER STAFF WRITER*

POSTED: FRIDAY, NOVEMBER 8, 2013, 11:38 AM



The Philadelphia District Attorney's office has agreed to bail and house arrest for Eugene Gilyard and Lance Felder - both 15 years into life terms for the robbery-murder of a North Philadelphia businessman - while it reinvestigates a case the defense says put two innocent men behind bars.

The announcement of the decision Friday morning stunned relatives of the men. The families had come to the city's Criminal Justice Center for a hearing where prosecutors were to announce whether they would appeal an Oct. 8 ruling by Common Pleas Court Judge Rose Marie DeFino-Nastasi ordering a new trial.

Assistant District Attorneys Laurie Williamson and Brian Zarallo said they would not appeal - and also would not oppose bail for the men while the case is investigated.

"Eugene is going to be ecstatic!" cried Gilyard's mother, Christine Gilyard Ellison.

"I am so happy, it was such a surprise," added Felder's sister, Sandra Felder.

Neither man was in court for the announcement and their lawyers said it would likely be several days before the arrangements can be made for electronically monitored house arrest.

DeFino-Nastasi said she understood that neither man's family had money so she allowed them to sign their own bail bonds.

Gilyard will live with his mother and Felder with his sister.

The judge warned both families not to make any attempt to contact witnesses in the case.

"I'm assuming that's not a problem," she added as the heads of relatives nodded in agreement.

David Rudovsky, Gilyard's attorney, and Felder's lawyer Jules Epstein praised the prosecution's decision to not appeal and not oppose bail.

"We will do anything we can to cooperate with their investigation," added Epstein, a Widener University law professor.

Zarallo, a deputy chief of the District Attorney's Homicide Unit who is overseeing the reinvestigation of the case, said the decision to not oppose bail was proper under the circumstances.

"A tremendous amount of new information led us to this point," Zarallo said. "We agreed to bail while a full, unbiased investigation is ongoing."

The prosecutors have 90 days to complete that investigation but Zarallo said it could be complete by Dec. 5, when DeFino-Nastasi will hold a status hearing.

Thomas Keal, 52, a popular North Philadelphia man who owned a bar and seafood store, was walking home about 2 a.m. on Aug. 31, 1995 when he was confronted by two armed men at 17th Street and Erie Avenue.

When Keal resisted demands for money and went for his own weapon, one robber shot him in the leg with a sawed-off shotgun. After Keal was on the ground, witnesses said the other gunman shot him in the head with a handgun.

But in a neighborhood dominated by violent drug gangs, no witnesses came forward and the case grew cold.

Gilyard and Felder were not arrested until January 1998 and then on the basis of a shaky photo identification by Keal's daughter, Tonya Keal, who glimpsed her father's shooting for about five seconds from her apartment above his seafood store. Keal's was the only evidence against the pair; there was no physical evidence.

But the original case began crumbling after the Pennsylvania Innocence Project took on the pair's request for a new trial. Investigators found new evidence including a confession to Keal's slaying by another man.

After several days of hearings, DeFino-Nastasi ruled that the new evidence could very well convince a new jury to acquit the pair.

"This is the type and quality of evidence that needs to be put before a jury," said DeFino-Nastasi.

Gilyard and Felder, both 34, always insisted they were innocent and Gilyard told police he knew the gunmen who killed Keal by their street names, "Rolex" and "Tizz."

It was in June 2011 that Innocence Project investigators obtained a statement from an inmate serving life for an unrelated murder.

Ricky "Rolex" Welborn confessed that he and another man he refused to identify had tried to rob and then shot Keal. Welborn said Gilyard and Felder had nothing to do with the crime.

Welborn has not been charged although that remains a possibility.

jslobodzian@phillynews.com