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Lakewood

Appeals court tosses charges against a man convicted in 2009 Lakewood police massacre

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By ADAM LYNN — Staff writer

Douglas Davis always contended he shouldn't be convicted of possessing a gun cop killer Maurice Clemmons took off one of his victims because he never touched the weapon.

The state Court of Appeals has agreed.

In a 3-0 decision issued Friday, a panel from Division II overturned Davis' convictions for possessing a stolen firearm and unlawful possession of firearm, and ruled he could not be recharged.

"I think he's an innocent guy who found himself in a position he couldn't get out of," said Kent Underwood, who represented Douglas at trial.

As part of the same decision, the appellate panel upheld the convictions of two other of the so-called Clemmons Seven defendants.

Justices Jill Johanson, Thomas Bjorgen and Christine Quinn-Brintnall ruled there was sufficient evidence for a jury to find Eddie Davis, who is unrelated to Douglas Davis, and Letrecia Nelson guilty of aiding the killer and possessing the gun he took from Lakewood police officer Greg Richards' body.

In addition to Richards, Clemmons killed Sgt. Mark Renninger and officers Tina Griswold and Ronald Owens during an attack Nov. 29, 2009, at a Parkland coffee shop.

Clemmons was later shot dead by a Seattle police officer during a manhunt that spanned two counties.

In the aftermath of the killings, Pierce County prosecutors filed charges against seven people, winning convictions against six of them either through jury trials or pleas.

Douglas Davis became the second of them to see his or her convictions overturned. Last year, an appeals panel threw out the convictions of Clemmons' sister, LaTanya Clemmons, and prosecutors chose not to try her again. She'd been charged with rendering aid to her brother's getaway driver.

Prosecutor Mark Lindquist cast Friday's ruling in a positive light.

"This was an aggressive prosecution designed to hold the Clemmons Seven accountable under every possible legal theory," he said. "We're pleased the appellate court upheld the convictions and exceptional sentences against Eddie Davis and Letrecia Nelson. I'm proud of the work our office did, along with law enforcement, in the vigorous prosecution of all those who assisted Maurice Clemmons."

The appellate panel, on a 2-1 vote, did find that some aggravating factors prosecutors filed against Eddie Davis and Nelson should not have been applied and send their cases back for re-sentencing.

Lindquist said he did not think that would affect the prison sentences they received.

Douglas Davis, Eddie Davis and Nelson were arrested in the days after the massacre.

Clemmons had demanded that the Davises accompany him to Nelson's house in Pacific after the shootings. He was wounded and carrying Richards' gun. The men complied, but Underwood argued at trial that his client was an unwilling participant who was scared of Clemmons.

Eddie Davis and Nelson were charged with rendering criminal assistance to Clemmons and possessing the firearm he had with him when he stopped by Nelson's home after the killings. Douglas Davis was charged solely with weapons crimes: being a felon in possession of a firearm and possessing a stolen weapon.

A jury convicted them as charged in December 2010, and prosecutors sought sentences above the standard range.

Superior Court Judge Stephanie Arend sentenced Eddie Davis to 10 years, five months in prison; Douglas Davis to seven years, six months; and Nelson to six years, two months. Those were exceptional sentences upward but not as much as prosecutors had asked for.

The three appealed.

The appellate panel found Douglas Davis' arguments compelling, particularly his contention that because he never touched the weapon Clemmons took from Richards he could not have possessed it.

Prosecutors argued at trial that even if Douglas Davis hadn't handled the weapon he'd "constructively possessed" the gun because it was in a car he was riding in at one point and because he was in the same room with the weapon at Nelson's house.

"The state argues that Douglas constructively possessed the gun while it was in the bag on the counter because 'anyone' could have taken possession of it," the panel wrote. "However, proximity alone is not enough to establish constructive possession."

Nelson and Eddie Davis both handled the weapon, albeit briefly, so their gun possession charges stand, the panel concluded.

Further proceedings have yet to be scheduled.

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