

U.S. Supreme Court declines to hear ex-police officer's appeal of Zehm case conviction

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Former Spokane police Officer Karl Thompson Jr.'s legal battle to overturn his conviction in the 2006 death of Otto Zehm ended at the U.S. Supreme Court on Monday.

The nation's highest court declined to hear Thompson's appeal, which argued that the Yakima jury that convicted him of civil rights violations heard evidence that legally should have been withheld. That evidence concerned the crime Thompson suspected Zehm of committing before the fatal encounter.

The decision ends a two-year appeals process for Thompson, who is scheduled to remain in a low-security facility in Safford, Arizona, until July 2016. He is serving a four-year sentence after the Yakima jury found him guilty in 2011 of using excessive force and attempting to conceal evidence in Zehm's death.

Thompson's attorney, Carl Oreskovich, said he was not surprised by Monday's decision, given the large volume of requests the nation's highest court receives. Of the 10,000 cases the court annually is asked to review, only 75 or 80 are heard. Oreskovich also said he had not yet discussed plans for further litigation with his client.

"It disappoints me, too," Oreskovich said. "I think the system failed."

Taxpayers have funded Thompson's defense, including his appeals. Oreskovich, who was appointed to the case, said he wasn't sure how much public money had been spent on Thompson's behalf.

Thompson initially was cleared of wrongdoing by Spokane County prosecutors in his confrontation with Zehm, which took place in a Zip Trip convenience store in north Spokane on March 18, 2006. Witnesses reported seeing Thompson strike the 36-year-old janitor multiple times with a baton, shoot him with a stun gun and hog-tie him after Thompson

responded to a theft report that turned out to be false. Zehm died a few days later.

But the FBI took up the case and scrutinized much of the evidence, including convenience store video that became a key issue at trial. The video, received through a public records request by The Spokesman-Review, appeared to contradict Thompson's initial statement that Zehm threatened the officer with a Pepsi bottle.

Mike Ormsby, U.S. attorney for the Eastern District of Washington, credited the work of trial attorneys in putting together the case against Thompson.

"The process has taken a long time, but in the end, the interests of justice were served," Ormsby said Tuesday.

The Supreme Court did not provide reasoning for its decision not to hear the appeal, which is standard practice for the court. The justices usually take up cases where issues of law are in conflict among judicial jurisdictions around the country, which was not the case in Thompson's argument.

Oreskovich filed his appeal to the Supreme Court in October, four months after the 9th U.S. Circuit Court of Appeals rejected Thompson's request for another trial. The court's decision comes the same week as the Department of Justice and Spokane Police Department are set to reveal the recommendations of a federal audit of the department, prompted in part by Zehm's death.

"This just underscores the significance of the commitment in the Spokane community to improve the police department, and that process has been underway for some time now," Ormsby said of the decision.