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Cash saved Van der Vyver

August 16 2011 at 11:38am
By Melanie Gosling

CAPE TIMES

Fred van der Vyver, accused of murdering his girlfriend, Inge Lotz, was the victim of a malicious prosecution by police and the state. It cost R10 million to prove the police had tried to frame him. With him is his advocate, Dup de Bruyn. Photo: Jeffrey Abrahams

If Fred van der Vyver had not had the money to prove that the police had lied in his murder trial, he would be sitting in Pollsmoor Prison today, forensic expert David Klatzow said on Monday .

Because the parents of the young Cape Town actuary were able to pay nearly R10 million in legal fees and flying out expert witnesses to expose the police lies and dodgy evidence against him, Van der Vyver is a free man.

And on Monday , six years after he was charged with murdering his girlfriend, Matie student Inge Lotz, Van der Vyver won a civil court case against the minister of police for malicious prosecution.

Essentially, the police did not have a shred of evidence against him, yet they had gone ahead and charged him with the murder.

Klatzow, one of the expert advisers to the Van der Vyver family, said that if Van der Vyver had not had the money to pay the hefty legal fees for a court case that lasted seven months, and the fees for overseas experts, "he would have been in Pollsmoor for ever".

Referring to Judge AH Veldhuizen's finding on Monday – that the murder case against Van der Vyver had been a malicious prosecution – Klatzow said there were "no surprises" in the judgment, and nothing that contradicted what the defence team had said all along in the murder trail.

It was deeply disappointing, Klatzow added, that Judge Deon van Zyl, who had presided over Van der Vyver's murder trial, "had failed to recognise the pathetic efforts of the prosecution, and the incompetence with which the State had approached it. He should have thrown it out at the end of the State case".

He hoped the police who had lied in the murder trail would be referred to the attorney-general for prosecution.

What was chilling, he said, was that Van der Vyver's was not an isolated case of shoddy police work.

"I see more and more cases. There is an incredible lack of competence in the police forensic team, to the great embarrassment, I should imagine, of those who are competent. It is tragic for this country that these people are still in the system. They are a disgrace to their colleagues and should be weeded out," Klatzow said.

Essentially, the police had three legs to their evidence: fingerprints, a bloody shoeprint and an ornamental hammer. They had falsified the prints, the "shoeprint" was not a shoeprint and the hammer was not the murder weapon.

"All three pieces of evidence were tainted with incompetence, or stupidity, or fraud – or all three," Klatzow said.

Police said they had found Van der Vyver's fingerprints on the cover of a DVD in the murdered woman's sitting room. This was crucial evidence. Because of the time that Lotz had taken out the DVD on the day she was murdered, the fingerprints on the DVD cover would have put Van der Vyver in her house at the time of the murder. It would have bust his alibi that he was at work at the time of the murder.

But what really happened was that had found the fingerprints on a glass in Lotz's flat, lifted them and swore under oath that he had got them from the DVD cover.

The Van der Vyver family had the money to pay for a Dutch fingerprint expert, Arie Zeelenberg, to testify that because of the curves in the fingerprints, they could not have been made on the flat surface of the DVD cover. They had been made on the rounded surface of a glass.

Constable Swartz, who had falsified the prints and lied in court, was now a sergeant.

Said Klatzow: "The police knew the prints never came from the DVD cover because they would have kept it, but they gave it back to the shop."

The evidence dealing with the little hammer, the supposed murder weapon, was also dodgy. Police had done several tests with the hammer, and had taken photographs of these, including the hammer embedded in a sheep's skull.

told the court he could not "include or exclude" the hammer being the murder weapon used to bludgeon Lotz in her head.

failed to disclose that part of the ornamental hammer bent the first time it was used by police in the tests, and that the hammer he used to smash the sheep's skull was not the ornamental hammer, but a much stronger hammer.

Also, there was no blood on the ornamental hammer.

did not say until it was dragged out of him under cross-examination that the hammer he had used was not the ornamental hammer. It's disgraceful," Klatzow said.

Regarding the third piece of evidence, the bloody shoeprint in the bathroom, police captain Bruce Bartholomew said in an affidavit that it matched the shoeprint of Van der Vyver. Other police officers in the forensic laboratory in Pretoria disagreed with him. The National Prosecuting Authority knew that they disagreed.

Bartholomew then went to the US to consult a shoeprint expert, William Bodziak, who told him it was not a shoeprint. The police captain returned to South Africa and lied that the US expert had agreed with him.

The Van der Vyver family brought Bodziak out, at great expense, who testified that the mark was not a shoeprint.

On Monday, in Van der Vyver's civil case, the court found that the policeman's shoeprint report "was not worth the paper it was written on".

Klatzow queried why the State prosecutor had never applied his mind to these matters. "They knew all this well before the trial got under way, yet they went on with it.

"The fingerprint was a sham, was dishonest about the hammer, and Bartholomew told a pack of lies about the shoeprint. It is disgraceful," Klatzow said. - Cape Times