

NEWS > CONNECTICUT NEWS

SUBSCRIBER ONLY

CT agrees to \$25M settlement with two men convicted of murder based on Henry Lee's testimony



By **EDMUND H. MAHONY** | emahony@courant.com | Hartford Courant

PUBLISHED: September 19, 2023 at 7:22 p.m. | UPDATED: September 19, 2023 at 8:24 p.m.

The state has agreed to pay \$25.2 million to settle a suit by two men who were wrongly convicted of murder as teenagers and imprisoned for 30 years based in large part on so-called crime scene evidence that [a federal court said was fabricated](#) by world-renowned [forensic scientist Henry C. Lee](#).

The settlement ends a decades-long legal fight by Shawn Henning and Ricky Birch, who were accused of a 1985 murder, but released from prison after the state Supreme Court reversed their convictions in 2018. The Supreme Court said — and [a federal court later agreed](#) — that Lee testified falsely about blood stains on a towel the prosecution said tied the teens to the crime.

The office of state Attorney General William Tong confirmed the settlement in an uncharacteristically subdued, three-sentence statement issued after the close of business Tuesday in response to a question by the Courant.

The office said it had reached a settlement in principle, which will not be final until approved by the state legislature. The legislature, which must approve such settlements in excess of \$2.5 million, will convene a special session later this month, but likely will not get to the settlement until next year.

Henning and Birch were accused and wrongly convicted of the bloody stabbing death of Everett Carr, a retired truck driver who was living with his daughter in New Milford. Two years after the convictions were reversed [they sued Lee](#), then the state's chief forensic scientist, as well as seven detectives with the state police and New Milford Police Department and the town of New Milford.

The settlement reached Tuesday is with Lee and the state police detectives. The case against New Milford and its officers was not settled and could proceed to trial.

The two teens were a pair of drug-abusing, teenage burglars living, packed with everything they owned, in a stolen car when detectives made them the top suspects in Carr's murder.

It was an exceptionally bloody crime and blood evidence dominated the separate Henning and Birch trials. Lee's trial testimony that he found traces of blood on a bath towel — testimony the state and federal courts have called at best, erroneous and at worst, false — sent Henning and Birch to prison for 50 and 55 years, respectively.

Carr had been stabbed 27 times. His jugular vein was slashed and the hallway in which his killers trapped him was so saturated with blood that detectives had to build a makeshift ramp to get to the body.

The teens argued in their defense, among other things, that they couldn't have killed Carr because not a speck of blood was found on them or any of the cluttered junk in the cramped stolen car where they were living.

Lee's trial testimony was the prosecution's answer. At the time of Carr's death, Lee was building a national reputation as a forensic scientist and could be counted on to be present with state police major crime investigators at high profile crime scenes.

Lee testified at both trials that he found the stained towel in an upstairs bathroom and that his repeated tests on what appeared to be light stains proved they were made by blood. The prosecutor used Lee's testimony to argue to the juries that the then 17-year-old Henning and 18-year-old Birch could have used the towel to clean themselves of blood.

When it reversed the convictions, the Supreme Court found that there was no blood on the towel. In addition, the court said Lee had no way of knowing what the stain on the towel was because neither he, nor anyone in his lab tested it before the teens were convicted.

When the stains on the towel were finally tested in 2008 — part of a last ditch appeal by Henning and Birch — the result showed they weren't made by blood, but some inorganic substance.

The state's agreement to settle the case followed an unusual pretrial ruling in the federal wrongful conviction suit by Henning and Birch. In July U.S. District Judge Victor Bolden concluded that Lee fabricated the blood evidence that led to the convictions and that he was liable for damages in the case.

The ruling meant that, had Tong's office not settled and the case against Lee had moved forward, it would have been a hearing in damages rather than a trial. A jury would have been instructed that Lee was liable for the wrongful conviction and told to decide only how much Henning and Birch were owed in compensation.

Lee appealed Bolden's ruling, but agreed to withdraw the appeal as part of the settlement, meaning the

Lee in July defended his 1985 examination of evidence in the murder case, stating that he did not fabricate evidence about blood found on a bathroom towel.

“I have no motive nor reason to fabricate evidence,” Lee wrote in his statement at the time. “My chemical testing of the towel played no direct role in implicating Mr. Birch and Mr. Henning or anyone else as suspects in this crime. Further, my scientific testimony at their trial included exculpatory evidence, such as a negative finding of blood on their clothing that served to exonerate them.”

Tags: [Connecticut news](#), [court](#), [courts](#), [CT news](#), [Henry Lee](#)



Edmund H. Mahony | Reporter

Edmund H. Mahony is a reporter for the Hartford Courant.

emahony@courant.com

[Follow Edmund H. Mahony @edmahony](#)