

Mint swindle libel suits wrecked health and cash

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By Bret Christian

The massive human and financial costs that grew from a corrupt police officer's libel suit were revealed in the Supreme Court this week.

Pushing libel actions against author Avon Lovell and defending counter-suits have cost the WA Police Union \$850,000, including a \$275,000 settlement payment to Mr Lovell in 1996. Most of it went to lawyers.

Mr Lovell is now on the edge of bankruptcy and police and a former police union official named in the suits have had their health badly affected by the stress.

Mr Lovell told the POST he was "on the bones of his bum" but was now free to finish a book "exposing the WA legal system as a vehicle for oppression".

Self-confessed perjurer Tony Lewandowski is dead, as is his boss in the notorious Perth Mint swindle investigation, Don Hancock, who was blown up by a bikie's bomb.

Three Mickelberg brothers - Ray, Brian and Peter - were wrongly convicted of tricking the Perth mint out of more than \$600,000 in gold in 1982.

Whoever committed the crime used stolen cheques and an elaborate system of phone calls and couriers booked to call at a rented office in Hay Street, Subiaco, opposite Princess Margaret Hospital.

This week three judges of the Court of Appeal ruled against Mr Lovell's bid to reopen his \$5 million claim against the Police Union, its then president Ric Stingemore, law firm Kott Gunning and six police officers involved in the original investigation.

The court ruled that Mr Lovell was beaten by the statute of limitations, which prevents civil actions being pursued after six years. But it was the human and financial details that emerged in the judgment that again proved the saying: "He who goes to law holds a wolf by the ears".

Tony Lewandowski was the first detective to go to law with his lying statement of claim in 1985.

It said there were untrue assertions in Mr Lovell's book, *The Mickelberg Stitch*, that Mr Lewandowski and Mr Hancock had faked evidence against the Mickelbergs, then lied in court to help convict them.

But in 2003 Mr Lewandowski sensationally recanted, swearing affidavits and giving evidence in court to three appeal judges that he and Mr Hancock had "stitched" the Mickelbergs and lied in their jury trial and to judges in subsequent appeals.

All along he and Mr Hancock were backed in their legal actions by the police union and the other young officers, who have maintained that they gave truthful evidence in court.

This week the latest set of appeal judges said Mr Lewandowski's confessions had implicated only Mr Hancock, not the other officers.

Nobody predicted that Mr Lewandowski's writ for libel against Mr Lovell would see much older and now ailing officers still fighting in the courts 24 years later.

Most had retired, some were sick, their illness magnified by the stress of massive payouts hanging over their heads.

Mr Lovell said in evidence he had been coerced into settling with the police and their union in 1996 because he had not then heard Mr Lewandowski's admissions.

But this week the Court of Appeal ruled that the six-year clock for the statute of limitations started ticking with that 1996 settlement.

The court rejected Mr Lovell's argument that there was an ongoing conspiracy to deprive him of his rights dating from the first 1985 court action, lasting right up to when Mr Lewandowski confessed in 2003, Mr Lovell had claimed the people he was suing had until 2003 "fraudulently maintained false evidence".

He said this was an unlawful use of the court's process. But the court ruled that Mr Lovell maintained this more than a decade earlier - he just did not then have the detail of Mr Lewandowski's admissions.

The court also criticised Mr Lovell for filing his latest appeal four years out of time.

The appeal judges said Mr Lovell had had no formal employment since 2004 - "his income is small and intermittent and he has few other resources".

He had to represent himself in court.

Justice Neville Owen said: "Given all that has happened in relation to the Perth Mint swindle and its aftermath, I have sympathy for the situation in which (Mr Lovell) finds himself and his determination to pursue a remedy."

But, the judge said, he was bound to deal with the legal process.

The court also considered the public interest in allowing the case to proceed.

"The continuing threats of litigation by the applicant (Mr Lovell) is having a serious effect on the union's ability to manage its budget and resources," Justice Owen wrote.

The union had said it might not be able to continue to pay to defend the officers.

In addition, the deaths of detectives Hancock and Lewandowski meant that the defence of other officers would be prejudiced because their evidence was no longer available.

The judge said Mr Stingemore now suffered from cancer and was on daily medication. "The legal proceedings (by Mr Lovell) since 1990 have had a considerable impact on his mental health," Justice Owen wrote.

"The stress has exacerbated his condition."

The surviving officers are now aged 56, 57, 59, 67 and 73. Their ailments listed in the judgment range from clinical depression, epileptic seizures, osteoarthritis and growths on the vocal chords.

As for Mr Lovell, the effect of the court decision would be serious, Justice Owen wrote.

"It will be very difficult for (him) to seek redress against these (officers). That has to be balanced against the prejudice pointed to by the (police) and against the general history of litigation between the parties.

"The public interest in finality of litigation comes into play." Justices Christopher Steytler and Christopher Pullin agreed.

Mr Lovell said he had been "down" after the decision, but he had done everything he could and would now return to his trade.

"I argued that I was the good guy and that I should be allowed to proceed in the interests of justice," he said.

"But they stuck to the letter of the law.

"Now I'll go back to what I do best. There will be two quick books - the first a big critique of the judicial system, and there's a screenplay waiting in Hollywood," he said.

The two surviving Mickelberg brothers, Ray and Peter, were given long jail sentences but were exonerated in 2004 by the Appeal Court after Mr Lewandowski confessed.

They are pursuing actions for damages against former police officers and the state government.