

everything in the massive 57-page motion filed jointly by Seitles and the prosecution (see the motion below).

"She didn't consider everything in the order," Seitles tells *New Times*. "He was only convicted of one substantive count of selling crack cocaine to a dirty cop."

Phillips' odyssey of crazy injustice has been a long and frustrating one, [chronicled mostly by *New Times*](#), starting with [a cover story published in 2011](#).

On April 6, 2001, Phillips supposedly sold \$50 worth of crack cocaine to West Palm Beach undercover officer Michael Ghent.

Ghent's testimony was the key to sealing Phillips' fate at trial. He was found guilty and convicted. But as he sat in his prison cell, he got to work on proving his innocence, reading law books, requesting files, and hiring a private investigator. The evidence quickly began to mount against Ghent being a dirty cop and his testimony being a pile of lies.

Ghent, it turns out, hadn't even been there on the night Phillips supposedly sold him crack. The officer was [attending a hostage negotiation class](#) on the night of April 6, 2001.

Moreover, through the work of private investigator Ralph Marston, the woman who Ghent says witnessed the drug deal eventually admitted [she wasn't at the scene either](#).

Phillips also uncovered even more shady maneuvering by Ghent, such as the fact that Ghent never bothered to turn in the supposed drugs he bought from Phillips to the West Palm Beach Police evidence log or that the money officer Ghent supposedly used -- which is cash provided by the station for undercover cops to pose as buyers -- wasn't taken out of the station by Ghent until six days after the arrest. There wasn't even an arrest report filed on the actual night of the arrest. An unsigned, undated one eventually appeared during the trial.

And then, shortly after the trial, Ghent was arrested on bribery charges after he was busted taking payoffs from Relax With Us, a West Palm Beach massage parlor that also happened to be a brothel. Ghent agreed to a plea deal to have his charges dropped. He surrendered his badge, quit the force, and moved to Arizona.

Meanwhile, Phillips' freedom is unjustly ebbing away in prison. He maintains he never sold drugs to anybody.

His hard work paid off, however. Federal prosecutors agreed with his findings and decided to set the wheels in motion to have Phillips set free.

Yes despite all the evidence and the prosecution agreeing that he was wrongly convicted, Judge Lenard refused to toss the main conspiracy conviction while vacating only one of the drug offenses. In her ruling, Lenard said that even though Officer Ghent's testimony may have been tainted, it wasn't enough to vacate the entire drug conspiracy case.

While this was a devastating blow to Phillips, Seitles remains steadfast in looking to get his client to eventually walk.

"Even the prosecution has said, 'Had we known this was a bad cop, we never would have arrested Phillips in the first place,'" Seitles says.

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-81283-CIV-LENARD

ELROY PHILLIPS

Plaintiff,

VS.

UNITED STATES OF AMERICA,

Defendant.

DEFENDANT’S MEMORANDUM IN SUPPORT OF THE PARTIES’ JOINT MOTION TO VACATE THE DEFENDANT’S CONVICTIONS ON COUNTS 1, 9, 14 AND 17 AND TO DISMISS WITH PREJUDICE COUNTS 1, 9, 14, AND 17 OR, IN THE ALTERNATIVE, A RENEWED MOTION FOR RELEASE OF MOVANT ON BOND PENDING RESOLUTION OF THE JOINT MOTION TO VACATE

Elroy Phillips, through counsel, hereby files this Memorandum in Support of the Parties Joint Motion to Vacate the Defendant’s Convictions on Counts 1, 9, 14 and 17, or, in the Alternative, a Renewed Motion for Release of Movant on Bond Pending Resolution of the Joint Motion to Vacate.

The Government and Mr. Phillips filed a Joint Motion to Vacate Defendant’s Convictions on Counts 1, 9, 14, and 17 and to Dismiss with Prejudice Counts 1, 9, 14, and 17 (“Joint Motion to Vacate”) (CIV DE:268)¹ on May 4, 2012. This Joint Motion was largely based upon the parties’ newfound knowledge that West Palm Beach Police Department (“WPBPD”) Officer Ghent (“Ghent”) had engaged in dishonest and unlawful conduct while the Government was relying on his testimony to support its conviction of Elroy Phillips. Ghent’s change in crucial elements of his

¹ Citations to “CIV DE:No.” refer to this § 2255 civil docket and citations to “CR DE:No.” refer to the underlying criminal case docket in case number 01-8084-CR-JAL.

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