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'Fingerprint killer' takes on the police

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THE reputation of the Scottish Criminal Records Office suffered another massive blow yesterday when "fingerprint killer" David Asburyâ€™s conviction for murdering a spinster in her home was quashed.

The cost of the bungled case, which has already landed the taxpayer with a multi-million pound bill, will rise further as Asburyâ€™s lawyers prepare a civil case against Strathclyde Police.

The saga has raised serious questions about the Scottish Criminal Records Office (SCRO) and fingerprint evidence. The appeal by Asbury, 26, was granted because crucial fingerprint evidence at his trial had been "inaccurate".

Asbury was jailed for life five years ago for the murder of Marion Ross, 51, a Kilmarnock bank clerk. But he was free last night after judges accepted legal arguments proving the SCROâ€™s fingerprint evidence against him was unreliable.

Asbury was convicted in May 1997, after a biscuit tin full of money, found in his house, was alleged to have the spinsterâ€™s fingerprint on it. But doubt was cast on the case during his trial after the jury heard defence claims that the fingerprint of a Strathclyde Police constable, Shirley McKie, had allegedly contaminated the crime scene.

During the trial, Ms McKie, one of the detectives investigating the murder, maintained she had never been in Ms Rossâ€™s house. After Asbury was convicted, Ms McKieâ€™s claims in court prompted the SCRO to launch an inquiry into how the fingerprints came to be at the scene and, following an investigation, the officer was suspended and charged with perjury.

But Ms McKie was cleared on a unanimous not guilty verdict after evidence from SCRO witnesses was discredited by a fingerprint expert from the US.

Her acquittal led directly to Asburyâ€™s appeal. He was released on bail in 2000, after serving three years of his life sentence. The public disquiet over the case prompted the justice minister, Jim Wallace, to announce a wide-sweeping overhaul of the SCROâ€™s fingerprints bureau.

Granting the appeal yesterday, Lord Gill, the Lord Justice-Clerk, said: "Plainly, it is a matter of considerable concern that the administration of justice has got into this position."

Gerald Hanretty, QC, for the Crown, said the case had been the subject of detailed consideration and the Crown was satisfied it could not rely on the body of evidence presented in the course of the trial.

Yesterday, Asbury told The Scotsman of his bitterness at being imprisoned. He said: "I am angry at what has happened. I was convicted of a crime I didnâ€™t commit.

"The time I spent in jail wasnâ€™t pleasant. It is beyond description. Iâ€™m really just relieved to a certain extent but angry because of whatâ€™s happened to me.

"I need to speak to my lawyers, but I want answers."

George More, Asburyâ€™s solicitor, said: "Fingerprinting evidence should be sacrosanct. It is very worrying that SCRO got it wrong, but they donâ€™t want to admit it in case other people come out of the woodwork."

The Crown Office defended the SCROâ€™s work and said recent reforms to the body, ordered by the Lord Advocate, had been effective. It said independent verification of 1,700 cases handled by the SCRO confirmed the accuracy of its work, but it accepted there was "insufficient evidence" against Asbury.

Ms McKie last night refused to comment on Asburyâ€™s appeal but claimed the decision vindicated the success of her own legal battle. She said: "Iâ€™m hoping this is finally going to be an end to this. The decision vindicates me once again and I now hope my own civil case against the Executive will progress.

"As for my own future, I donâ€™t know. Iâ€™m hoping to get an out of court settlement and get on with my life."

The Executive said it could not comment on the ruling as Ms McKieâ€™s civil action, lodged in November 2001, was still ongoing.

Mike Russell, and SNP MSP and a long-term supporter of Ms McKie, said the Executive should settle out of court: "Jim Wallace should not go on trying to defend the indefensible and pay Ms McKie and end this whole sorry episode."

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