

Oakland prosecutor's review of murder conviction coincided with campaign donations from man's family



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Oakland County prosecutors will ask a judge at a Wednesday hearing to vacate a Farmington Hills man's first-degree murder conviction in the shooting death of his nephew and resentence him with a second-degree murder conviction after two key witnesses recanted trial testimony.

But the widow of the victim said she is troubled that Hayes Bacall's relatives and others with ties to his family have made political donations to Oakland County Prosecutor Karen McDonald's campaign as the prosecutor's office reviewed the case. Assistant Prosecutor David Williams said those contributions were unrelated to reconsidering Bacall's life sentence and said McDonald was unaware of any connection between Bacall and the donors until The Detroit News contacted her.

Bacall, 63, was sentenced to life in prison for killing his nephew, 33-year-old Saif Jameel, following the 2011 trial. Each of his four appeals — to the Michigan Court of Appeals, the Michigan Supreme Court, the U.S. District Court for the Eastern District of Michigan and the U.S. 6th Circuit Court of Appeals — was denied or not heard by the court.

The Oakland County Conviction Integrity Unit reviewed the case in 2022 and determined that prosecutorial misconduct related to lies the prosecutor told during closing arguments, as well as witnesses recanting their testimony, resulted in a weak conviction. The prosecutor said several times during closing arguments that Bacall had never brought up a self-defense case before the trial began, even though it was not true.

"The lawfulness of Hayes Bacall's first-degree murder conviction has been questioned for more than a decade," Oakland County Prosecutor Karen McDonald's office wrote in a statement. "Upon review, it became clear that the meager evidence in support of a deeply flawed conviction had been undermined, and that the conviction of first-degree murder could no longer stand. Instead, the CIU determined that the remaining evidence was only sufficient to support a conviction for second-degree murder."

The review of Bacall's conviction began in November 2021, McDonald's office said.

Six months later, while the prosecutor's office was preparing to interview the recanting witnesses, Hayes Bacall's three brothers, his son, the Chaldean Chamber of Commerce's political action committee, 15 other people connected to the chamber and three others donated \$86,000 to McDonald's reelection campaign over a two-day period, May 17-18, 2022. The influx of donations represented 94% of McDonald's total fundraising in the first seven months of 2022, a Detroit News analysis of campaign finance reports shows.

Hayes Bacall's son, Maher Bacall, said his political donation of \$2,000 was "totally irrelevant" to the review of his father's case. He said he's made political contributions throughout the years to various campaigns and fundraisers.

Basil and Eddie Bacall, Hayes' brothers and partners in the West Bloomfield-based real estate development firm Bacall Group, each donated \$2,000 to McDonald's campaign. A third Bacall brother, Jacob Bacall, CEO of Bacall Development, a commercial real estate firm in Farmington Hills, also donated \$2,000 to the prosecutor's campaign, records show. Basil and Jacob Bacall did not respond for comment, and Eddie Bacall said he did not remember the donation.

Gennifer Jameel, Saif Jameel's widow, said the donations to McDonald's campaign while the prosecutor's office was reconsidering Hayes Bacall's conviction for murdering her husband are concerning.

"They're all close family," Jameel told The Detroit News. "They want to get Hayes Bacall out of prison. They know very well it was premeditated murder."

Political donations explained

McDonald's campaign finance report from spring 2022 contains no record of a fundraiser for the first-term Democrat. The donations from the Bacall family members, the Chaldean Chamber of Commerce and businessmen who are chamber members are all marked "direct," records show.

Oakland County Prosecutor's Office Community Liaison Gabby Klos said McDonald held a campaign event May 17, 2022, in Birmingham, but the donations on the campaign finance report were not coded correctly. Klos said Tuesday the campaign will file an amended report.

Businessman Kevin Denha, who hosted the May 2022 campaign event, as well as one in March 2020 and earlier this month, said these events had nothing to do with the Bacalls. He noted the Bacalls are a large family. Denha said he did not know Hayes Bacall or Saif Jameel.

Martin Manna, president of the Chaldean Chamber of Commerce, also said he did not know who Hayes Bacall or Saif Jameel were, and said the chamber's donations to McDonald had no connection to a review of Bacall's life prison sentence.

In an email, McDonald said she did not speak to anyone about the Bacall case aside from her staff. She declined a phone interview. McDonald said the May 2022 donations corresponded with an annual campaign fundraiser.

"Our office strictly abided by the protocol and best practices of the Conviction Integrity Unit. The CIU conducted a thorough, independent investigation and reached its recommendation without any influence or interference of any kind," McDonald said in a statement. "The Oakland County Prosecutor's Office's top priorities are public safety and fair and just prosecution. Politics will never influence the decisions of my office."

Assistant Prosecutor David Williams said the head of the Conviction Integrity Unit reports directly to McDonald and doesn't interact with the other assistant prosecutors.

"The Conviction Integrity Unit is independent and bases its decision on the evidence," the prosecutor's office said in a statement. "Any suggestion that the Conviction Integrity Unit's review of this case and subsequent conclusion was based on anything other than the facts is absolutely false and deeply offensive."

Hayes Bacall's attorney, David Gorcyca, declined to comment beyond what was in the motions submitted to the court. Gorcyca, a former prosecutor of Oakland County for 12 years, did not respond when asked about the donations.

On Wednesday, Oakland County Circuit Judge Mary Ellen Brennan is scheduled to hear Bacall and Oakland County prosecutor's case for granting the joint motion to set aside the first-degree murder conviction, replace it with a second-degree murder conviction and resentence Bacall.

A jury found Bacall guilty of first-degree murder in the killing of his nephew, Saif Jameel, in August 2011. When police asked him what happened immediately after the shooting, Bacall said: "I shot my nephew, he owes me \$400,000," according to a Michigan Court of Appeals summary of the case.

While none of the appeals courts granted Bacall's request for relief, judges on the Michigan Court of Appeals, the Detroit U.S. District Court and the Sixth Circuit Court of Appeals all concluded there had been prosecutorial misconduct. The Supreme Court declined to hear the case.

So Bacall turned back to the Oakland County courts and filed a motion for relief from judgment. Brennan noted in her March 3 order denying Bacall's motion that post-conviction relief is "an extraordinary remedy" that is only appropriate to prevent manifest injustice.

For Brennan to have considered the motion, Bacall would have needed to present either good cause for failing to raise an issue on appeal or show actual prejudice in the conviction, the judge wrote. Brennan said he did not show either and instead chose to "leave it to this court to discover and rationalize the basis for the claim."

This was eventually followed by the joint motion from prosecutors and Bacall's defense attorneys, accompanied by affidavits from the recanting witnesses, transcripts from the trial and the full Conviction Integrity Unit report.

Witnesses recant testimony from 2011 trial

One of the witnesses, Samir Bacall, said in an affidavit that he was upset when his brother, Saif Jameel, was killed in 2010, so he embellished his statement out of anger and for

revenge. He admitted he lied about the threats Hayes Bacall supposedly made and wanted to make sure Bacall wasn't declared innocent because he had good legal representation.

"He believes Hayes Bacall should be allowed to move on with his life, and that's why he is coming forward with the truth now," according to the CIU report.

Samir Bacall said he "made some false statements which I regret" during the trial and the preceding investigation.

"It was not accurate when I stated that my uncle told me he was going to kill my brother," Samir Bacall wrote in the affidavit. "It was not accurate when I stated that my uncle called me and said that he was going to kill my brother's son. It was not true that other family members heard these threats."

Slieman Bashi, who was in the gas station office when Saif Jameel was killed, said Hayes Bacall and Saif Jameel started arguing about money, and it escalated to cursing.

Saif Jameel told Hayes Bacall he was "going to shove a gun up his a--" and lunged at Hayes Bacall, which is when Bashi said he heard shots. Bashi said in his affidavit he's coming forward now because the truth recently came back to him, and he wanted to tell what he now remembers.

At the trial, Bashi testified that Hayes Bacall shot Saif Jameel "before Saif could say anything" and that Saif Jameel "did not touch Hayes, did not threaten Hayes and that Saif was getting out of his chair when Hayes shot Saif."

But in his affidavit, Bashi recanted his trial testimony.

"With the clarity of vision that comes after 12 years of grieving and mourning Saif, I realized that my testimony at trial regarding Saif's actions was not accurate or truthful," Bashi wrote in the affidavit.

With the newly discovered evidence, it would be a "miscarriage of justice" to allow Hayes Bacall's conviction and sentence to stand, according to the joint motion. Prosecutors could not prove their case beyond a reasonable doubt without the testimony from the recanting witnesses, according to the motion. This testimony was "central" to the prosecutor's case because Bashi was the only eyewitness, and Samir Bacall laid the foundation that Hayes Bacall acted with the required premeditation, according to the joint motion.

"In fact, no revelations could be more significant in light of the People's theory of the case," according to the motion.

Taking away Bashi's story that portrayed Jameel as a calm actor who was abruptly shot by Bacall "materially alter(s)" the facts, as does taking away Samir Bacall's testimony about previous threats to kill Jameel and his son," the joint motion from Bacall's attorneys and the Oakland County Prosecutor's Office said.

Hayes Bacall's attorneys and the prosecutors added: "The court should not deny Mr. Bacall due process and leave in stone what is tantamount to a death sentence. Mr. Bacall's trial was replete with legal and factual issues (as recognized by the Sixth Circuit Court of Appeals) and now he presents credible evidence that the two most important witnesses testified falsely or otherwise provided inaccurate information. ... Without this evidence, the people's case would crumble on retrial."

Video of shooting not mentioned in motions

Gennifer Jameel, the victim's wife, said she is frustrated that after 12 years, the witnesses are allowed to come back and say they gave false statements, especially when the surveillance video of the shooting shows what happened. This video was not mentioned in the Conviction Integrity Unit report or the joint motion for reconsideration.

The video is not mentioned because there was "no question whatsoever that the defendant shot and killed the victim," according to the Oakland County Prosecutor's office. The U.S. 6th Circuit Court of Appeals three-judge panel noted in its opinion on Bacall's appeal that the video was inconclusive.

"The issue the CIU determined needed to be addressed was the jury's consideration of second-degree murder," the prosecutor's office said in a statement.

Gennifer Jameel said the Bacall family is close, and they all want to get Hayes Bacall out of prison.

"They might not care because they're over my husband and father of my children's death," Gennifer Jameel said. "We're not. Me and my kids are not over it. My kids were cheated in life. ... Their father didn't see them graduate from college, nothing."

She said anyone who watches the video of the killing can see the shooting was not done in self-defense, as Bacall claims. The News has submitted an open record request for the video.

"Hayes Bacall went in, pulled a gun before the door opened and he shot 12 rounds in seconds," Jameel said. "My husband was dead on the table, his brain tissue flying, and he keeps on shooting him."

Retired Oakland County Judge Rae Lee Chabot, who sat through the trial and watched the video of the murder with the jury in 2011, told The News it was clear from the defense attorney and prosecutor motions that no one has watched the video, which she said is ingrained in her mind.

"My response to anyone asking my opinion about this is to ask them, 'Have you seen the video?'" Chabot said. "Once you have seen the video, I really don't believe you'll have any questions of me."

Gennifer Jameel said she hopes Brennan reviews the video before considering a reduced sentence.

"I hope the judge sees through them and sees what's really going on," Jameel said. "I hope she watches the video and sees what the truth is. My husband's blood is on her hands. ... It's all on her hands now."

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