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Decorated Trenton cop's credibility questioned after Robin Lord wins 3-kilo cocaine case

By *SULAIMAN ABDUR-RAHMAN* Staff Writer

TRENTON -- Decorated city cop Jason Astbury, [long praised for his detective skills](#), is now being questioned for his credibility after a Mercer County judge squashed the 3 kilograms of cocaine that Astbury used as evidence in the 2006 arrest of city man Walter Funderburg.

In October 2006 when Astbury arrested the then-53-year-old Funderburg on drug peddling charges without having a search warrant, Trenton police narc czar Dan Pagnotta declared Astbury "is a hardworking veteran police officer who has earned the trust of countless city residents."

But defense lawyer [Robin Lord](#) on Monday won the four-year battle to get the evidence against Funderburg suppressed under a court order signed by Superior Court Judge Mitchel Ostrer, and now Lord is calling for police authorities to investigate Astbury on his police reporting.

"Detective Astbury changed his story. It changed because he's lying," Lord told *The Trentonian* on Monday after Ostrer issued the ruling.

The ruling was based on Astbury presenting "three distinct versions of why he went to 12 Atterbury Avenue" on the night he arrested Funderburg, the judge wrote.

In one story, Astbury said in an affidavit of probable cause that he received a telephone call from a confidential informant that a significant amount of cocaine would be moved from 12 Atterbury Ave. in the West Ward near West State Street, according to the ruling.

Astbury revised his story in an Internal Affairs interview to say he received the drug tip secondhand from another cop who got the info from a confidential informant, the ruling states.

When challenged on his first two stories, Astbury gave his third version at a court hearing to say he talked with the confidential tipster on the phone and days later met with that tipster inside the Trenton Police Department's lobby on the day of the Oct. 29, 2006, warrantless search and seizure of the cocaine, according to the ruling.

"The court is unable to credit by a preponderance of the evidence any of these three versions of events," Ostrer said in his decision. "First and foremost, each version is at odds with the other two versions. ... The witnesses' demeanor does not help the court resolve the inconsistencies."

"... As a result of the inconsistencies in testimony and the implausibility of certain aspects of the state's version of events," Ostrer concluded, "... the motion to suppress shall be granted."

Prosecutors tried to hang Funderburg on charges he intended to sell \$90,000 worth of coke. Cops said they saw Funderburg stash a dark-colored book bag between the stairs to the third-floor fire

escape of the apartment and that they seized the bag and searched it to discover the dope.

"This is not an example of where a defendant gets off quote-unquote on a technicality," said Lord, saying Funderburg had no connection to the drugs but that cops preyed on him just to stick someone with charges. "In this case they violated my client's rights by creating a story that just didn't happen just to get a big bust."

The Trentonian's attempt on Monday to reach a Mercer County Prosecutor's Office spokesperson for comment was unsuccessful.

Lord said she now has reason to "question anything" Astbury puts in his reports, citing the judge's ruling from Monday as well as a recent gun possession case that was based on Astbury's detective work in which that defendant, Abdul Smith, was found not guilty by a trial jury.

Lord said she's "hopeful but not optimistic" that the authorities will investigate Astbury to evaluate if he's properly performing his job as a law-enforcement officer.

"That's the problem over there -- there's no accountability," Lord said. "If their own department doesn't hold them accountable for their mistakes, then who will?"

Prior to his 2006 arrest, state Department of Corrections records indicate Funderburg served almost one year in prison from April 2002 to March 2003 for selling drugs on school property.

Lord said the 5-foot-6, 165-pound Funderburg posted bail early on during his four-year legal battle, so he didn't spend the last four years behind bars leading up to Monday's ruling that tossed the 3 kilos of cocaine from the evidence pool against Funderburg.

Warrantless searches must be justified under a strict legal standard in order for evidence obtained without a warrant to be constitutional and unsuppressible by a judge. Judge Ostrer ruled the state didn't meet the burden to justify its warrantless search and seizure of drugs in the case against Funderburg.