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## MAN TRIES TO PROVE HE WAS RAILROADED BY BISKUPIC

Dee J. Hall Wisconsin State Journal

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**D**ale Chu is afraid to hope. Ever since he was convicted in 2000 of setting fire to his family's dry-cleaning business in Appleton, Chu has filed one appeal after another in an unsuccessful attempt to prove he's innocent.

Chu, 24, claims he was railroaded by former attorney general hopeful and Outagamie County District Attorney Vince Biskupic. He claims Biskupic used false testimony and sloppy police work to put him behind bars in an attempt to clear the high-profile case. Now it appears that the state Department of Justice is investigating whether Chu is right.

Justice spokesman Brian Rieselman said he can't confirm or deny any probe, but both Chu and private investigator Ira Robins say they've been contacted by investigators working for the state. In response to a phone call and e-mail, Biskupic said in an e-mail that he has been assured there is no investigation.

However, Chu said that at the request of the Justice Department, he has sent nearly 100 pages of documentation about his case, including results of a 2001 polygraph in which Chu was found truthful when he denied setting the fire.

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Chu, now on parole, believes that Biskupic was able to convict him because he was already in trouble with the law for cocaine dealing. "I think that's what gave them a venue -- because I wasn't a model citizen," Chu said.

As for the fire, he said, "I am innocent."

### Changed story

Initially, there was nothing to link Chu to the fire at So's Drycleaners in Appleton on Jan. 4, 1998, other than the fact that Chu, then 17, was in a company delivery van near the store with three others before the fire was reported. But investigators were convinced the blaze was arson -- although the investigators never were able to pinpoint the cause.

According to documents compiled by Robins, in early 2000, Nicholas Wales, a former employee of So's, was questioned by Appleton police about the fire. He denied any knowledge of it. Then Steve Malchow, an investigator for Biskupic, offered to "get rid of" Wales' legal troubles, including a pending theft case, if he would "cooperate with him on the Chu arson case," according to a sworn statement by Wales.

That's when Wales changed his story and told Appleton police that Chu had confessed to torching the building so his father, So Man Chu, could get insurance money.

Documents show Malchow personally quashed a warrant seeking Wales' arrest. In the sworn affidavit, Wales said Malchow told him to keep his offer secret because "it would look bad for the case if anyone found out that he was doing favors for me." He also said Malchow told him he "should lie on the witness stand if I was asked about my cooperation."

Malchow, who continues to work as an investigator for the Outagamie County District Attorney's Office, denied ever telling Wales to commit perjury, calling the allegation "absurd." In an e-mail to the State Journal, he contradicted Wales' sworn statement, saying it was Wales who approached authorities, not the other way around.

But Malchow acknowledged telling Wales that he could keep the offer of leniency a secret from his attorney, Brian Figy, now court commissioner in Outagamie County Circuit Court. Malchow said such behavior is "neither illegal or unethical."

"I can't explain to you why Wales signed this affidavit with the absurd information other than he was being pressured by his attorney (Figy)," he said.

Figy declined to comment on the case, citing attorney-client privilege.

Documents show that in the weeks before the trial, Wales recanted his allegations about Malchow, then later claimed they were true. But Robins said the jury never got to hear about all of Wales' flip-flopping -- which raised serious questions about his credibility -- because it was hidden by Biskupic.

"There was concern about Mr. Wales and what he had said and done and whether that information was disclosed," Chu's trial attorney, William Grogan of Appleton, recalled. However, Grogan said since he wasn't involved in any of the appeals, he can't say for sure whether key evidence was withheld.

Biskupic responded in an e-mail that the Wisconsin Court of Appeals upheld his handling of the case. The court found Chu hadn't provided sufficient evidence that the information was withheld. In the absence of such proof, it ruled for Biskupic. Wales, currently in prison at Kettle Moraine Correctional Institution, declined a request for an interview.

Although Chu is out on parole, his family's legal troubles haven't ended. In 2003, Outagamie County District Attorney Carrie Schneider charged Chu's father with insurance fraud and theft. In September, So Man Chu, 50, of Appleton, entered an

Alford plea, admitting no guilt but acknowledging there's enough evidence to convict him. His sentencing is scheduled for April 11.

His court-appointed attorney, Scott E. Hansen of Appleton, said the elder Chu "has continued to deny any involvement in the fire at his business" but opted for the plea deal in hopes of avoiding "the same fate as his son." Hansen said he welcomed the state probe into "the way this (Dale Chu) case was conducted -- and I hope the truth is found."

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