

Nightmare ends for innocent man

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By BENTLEY ORRICK
Tribune Staff Writer

TAMPA — "They just didn't listen."

For James Robert Stewart, a 22-year-old carpet layer, that was almost the worst thing about his four months in jail. That and the terror of realizing that if they could jail an innocent man for murder without bail, they could possibly convict him, too.

Stewart, a touch of anguish still in his voice two years later, maintained Friday that he had proved his innocence in a holdup-murder at a restaurant he had never visited "the first week I was in jail" but nobody paid any attention.

"It was the worst experience I've ever been through in my life. It seemed like I was just going to the electric chair," Stewart said. "They just stuck me in jail and that was it. I never heard nothing from them."

Stewart said he never received so much as received an apology from the Tampa Police Department. He filed a civil rights false arrest lawsuit in federal court this week.

It began minutes before midnight Aug. 31, 1985, when a man in a ski mask marched into the Matterhorn Haus Restaurant at 810 E. Skagway, pointed a 9 mm machine pistol at a dozen patrons and employees and demanded cash.

There weren't many customers there that night because Hurricane Elena was threatening Tampa.

The bandit was handed a sack containing less than \$200 in cash and was confronted by Johannes Frischknecht, the 39-year-old Swiss immigrant who had opened the restaurant five years before.

Frischknecht had a pistol too. But two of the bandit's bullets struck him, and the restaurant owner died minutes later in an emergency room.

Meanwhile, Stewart said, he and a roommate had left their trailer under a hurricane evacuation notice to stay with two other young men in Thonotossassa.

There, Stewart recalls, they watched a ball game and spent an uneventful night.

The gunman got away from the restaurant on foot. Two days later,

police arrested a dishwasher at the restaurant, John Scott Lehman, who had tipped another employee before the robbery that something was up.

Lehman told the police that a Jim Stewart had been the gunman. Stewart to this day said he does not know why. "I hardly knew him. I'd seen him around. But we weren't even acquaintances. Maybe he just picked it because it was a common name."

Police detectives found out Stewart had gone to Ohio and issued a warrant for him based on Lehman's statement.

The first Stewart says he knew about it was when police "threw me in a car and threw me in jail."

His nightmare was just beginning.

He spent 48 days in the Columbia County jail refusing to be extradited.

He said he figured he would be released in Ohio because his parents had relayed his Thonotossassa-house alibi to police along with the names of friends who would back it up. He said he offered to take a polygraph and demanded to be put in a lineup. He figured his innocence would be proven right away.

He figured wrong.

For seven days, he journeyed from Ohio to Florida in a prison van. For more than three months he sat in the Hillsborough County jail before then-Assistant State Attorney Joe Episcopo dropped the case.

Stewart finally went free. Lehman had changed his story and named his sister's boyfriend, Leon Antonio Torres, as the gunman.

Lehman got eight years. Torres got life.

Stewart and his family got "the blackest time in our lives."

"It come up out of nowhere," he said. "I think maybe I heard about it (the robbery in the papers) but you know, I didn't think anything about it."

Episcopo said, "I don't have any problems with anything that happened. We thought we had probable cause. We were very concerned that that awesome machine pistol would be used again."

Spokesmen for the Police Department and the State Attorney's Office declined comment.