

The North Carolina Center on Actual Innocence

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North Carolina DNA Exoneration Cases

Joseph Abbitt

On May 2, 1991, at approximately 5:30 a.m., two young sisters, age 16 and 13, were waking to get ready for school when an intruder entered their home through a rear kitchen window and raped them at knife-point. Although the victims had limited opportunity to see their attacker's face, both girls identified the rapist as Abbitt, who had previously lived two houses down the street from the family and had visited the girls' home. Rape kits were taken from both girls but were never tested. Although results of testing from a piece of clothing found at the scene did not match the defendant, neither the victims nor investigators were certain whether the item was involved in the crime. Based on identification by the victims, Abbitt was convicted of two counts of first degree rape, two counts of kidnapping, and one count of first degree burglary and was sentenced to two consecutive life sentences plus 110 years.

In 2005, Mr. Abbitt applied to the Center for assistance with his claim of wrongful incarceration. After case file review by students from one of North Carolina's seven law school Innocence Projects® that work with the Center, the Center contacted the Winston-Salem Police Department for its assistance in the location of biological evidence for testing. Fortunately, the police department had preserved evidence from the 1991 investigation, although they were not required to by law at that time. With the cooperation of the Forsyth County District Attorney's office, a profile obtained from DNA testing of vaginal swabs from one of the rape victims conclusively excluded Joseph Abbitt as the perpetrator of the rapes. Mr. Abbitt was exonerated on September 2, 2009 and was released from prison after serving fourteen years for a crime he did not commit.

Keith Brown

In 1993, Mr. Brown was convicted of the 1991 sexual assault and brutal beating of a Wilson mother and daughter. Mr. Brown pled guilty after police produced a written confession and he was sentenced to thirty-five years. After serving four years, the DNA profile from the rape kits in Mr. Brown's case were matched to the true perpetrator of the crime, who had continued to rape and brutalize women after Mr. Brown's conviction. Mr. Brown was exonerated in 1997 and pardoned by Governor Hunt in 1999.

Ronald Cotton

In 1984, two apartments in the same vicinity of Alamance County were broken into and the female residents were robbed and raped by a man similarly described by both victims. Mr. Cotton was convicted of one of the rapes and burglaries in 1985 based on eyewitness identification. In 1987, after being granted a new trial, Mr. Cotton was convicted of both rapes and burglaries after the second victim joined in the identification of Mr. Cotton as her assailant. In 1994, a motion for DNA testing was granted. While the samples from one victim were too deteriorated to use, the samples from the second victim excluded Mr. Cotton as the assailant. The DNA of the assailant was run through the State's database, and a match was made to a man who had previously confessed to both rapes to another inmate. In 1995, Mr. Cotton was exonerated and pardoned by Governor Hunt.

One of the victims in the Cotton case was Jennifer Thompson. During the rape, Ms. Thompson specifically concentrated on memorizing the features of her attacker so she could identify him if she survived. She misidentified Mr. Cotton as her attacker and now travels the country speaking about the fallibility of eyewitness identification.

Dwyane Allen Dail

In 1987, a man crawled through the window of a 12 year old girl and raped her. She later identified Mr. Dail as her assailant and he was charged with first degree rape, first degree sex offense, first degree burglary, indecent liberties, and a lewd and lascivious act. The evidence against him was the victim's ID and a hair found at the scene that was determined to be microscopically consistent with his hair. Prior to trial, Mr. Dail was offered three years probation if he would plead guilty to a misdemeanor. He refused to plead guilty for something he did not do. At the age of 20, Mr. Dail was found guilty and sentenced to two life sentences plus eighteen years.

Mr. Dail applied to The North Carolina Center on Actual Innocence in 2000. The Center attempted numerous times to locate the rape kit and other physical evidence from the case, but was told all evidence had been destroyed. In 2007, as a result of "one more call" by the Center, the Goldsboro Police located a bag of evidence from the case. DNA testing of the evidence exonerated Mr. Dail and he was released from prison on August 28, 2007 after serving over 18 years for a crime he did not commit. The true perpetrator of the horrific crimes was identified through the State's DNA databank. Mr. Dail received a pardon of innocence from Governor Easley.

EXHIBIT 15

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Darryl Hunt

In 1984, Deborah Sykes was raped and murdered in Forsyth County. The 911 call made reporting the attack came from a man who identified himself as Sammy Mitchell, a friend of Mr. Hunt's. It was not until later in the investigation that the true name of the caller was identified as Johnny Gray, but by that time Mr. Hunt was already a suspect. A witness reported seeing Ms. Sykes with a man matching Mr. Hunt's descriptions and the witness later identified Mr. Hunt in a photo line up. Mr. Hunt's alibi witness was his girlfriend. She was later arrested, and then told police he had confessed to her. She recanted this statement before Mr. Hunt's trial, but her statements were presented to the jury nonetheless. Mr. Hunt was convicted, but he was granted a new trial because the prosecutors entered the statements after they had been recanted. At his second trial, Mr. Hunt was convicted again.

In 1994, Mr. Hunt's long time attorney, Mark Rabil, filed a motion for DNA testing with another attorney, Ben Dowling-Sendor. Mr. Hunt was excluded as the contributor of the DNA found on the victim. Still, the courts ruled this evidence did not prove he was innocent.

In 2004, the DNA profile from evidence from the crime scene was run through the state's database. The DNA matched a man in prison for another murder, who confessed to the Deborah Sykes rape and murder. Mr. Hunt was finally exonerated and was eventually pardoned by Governor Easley.

Lesly Jean

Mr. Jean was convicted of rape and sexual offense in 1982 in Onslow County. At the time he was a lance corporal at Camp Lejeune. The identification by the victim and an officer who saw the perpetrator only became detailed and consistent enough to use at trial after both witnesses underwent hypnosis. Mr. Jean was found guilty, sentenced to two life sentences, and dishonorably discharged. Nine years later his conviction was overturned by the 4th Circuit because the evidence that the witnesses had been hypnotized had not been revealed to the defense. The prosecutor could not retry the case because the eyewitnesses had been discredited. For ten years after his release, Mr. Jean lived with the stigma of being a convicted rapist. Finally, nineteen years after his original conviction, biological evidence exonerated him in 2001. Mr. Jean received a pardon of innocence from Governor Easley.

Leo Waters

Mr. Waters was convicted of rape, sexual offense and robbery with a dangerous weapon in 1982 in Onslow County. The victim had been raped and robbed at gunpoint by a man claiming to be interested in the water bed she was trying to sell. She could not identify anyone in the photo line ups. In an attempt to bolster her memory, the victim was hypnotized. After the hypnosis, she tentatively picked Mr. Waters out of a photo line up as her assailant. Her ID became more confident after she saw him in person in the courtroom. Mr. Waters filed a pro se application for DNA testing and was appointed counsel. In 2003, DNA testing of the rape kit exonerated Mr. Waters and he was released after twenty-one years in prison. Mr. Waters was pardoned by Governor Easley in 2005.