



Dale Duke

In 1992, shortly after Dale Duke and his wife of five years had separated, his seven-year-old stepdaughter alleged that he had sexually molested her during spankings in their Dallas, Texas home.

In April, 1992, Duke, 42, was charged with aggravated sexual assault. In August, he entered a plea of no contest and was placed on probation for 10 years.

As a condition of the sentence, Duke was required to enter a sex offender treatment program. In 1997, when he refused to admit that he committed the assault, he was expelled from the program and brought back to court on a probation violation. He was sentenced to 20 years in prison.

In 1998, the victim recanted her accusation and an attorney was appointed to represent Duke and to examine the case. He filed a state petition for a writ of habeas corpus. Although the director of the Dallas Children's Advocacy Center testified that the recantation was credible and that there was no medical evidence of molestation, Duke's petition was rejected.

In 2008, Craig Watkins was elected District Attorney of Dallas County and instituted an open file policy on all cases. In 2010, Duke's attorney requested the file and discovered that prosecutors had a statement from the victim's maternal grandmother, who said that she believed the girl was lying and that the girl's aunt had coerced her to make the allegation. The grandmother had died in 2006.

On November 4, 2011, the District Attorney's Office filed a motion to vacate the conviction and dismiss the charges. Duke was freed from prison that day.

– Maurice Possley

[Report an error or add more information about this case.](#)

State: Texas

County: Dallas

Most Serious Crime: Child Sex Abuse

Additional Convictions:

Reported Crime Date: 1992

Convicted: 1992

Exonerated: 2011

Sentence: 20 years

Race: Caucasian

Sex: Male

Age: 42

Contributing Factors: Perjury or False Accusation, Official Misconduct

Did DNA evidence contribute to the exoneration? No

:

EXONERATION NEWS

[MORE NEWS...](#)

CONTACT US

We welcome new information from any source about the exoneration that are already on our list and about new cases that might be exoneration. And we will be happy to respond to inquiries about the Registry.

- + [Tell us about an exoneration that we may have missed](#)
- + [Correct an error or add information about an exoneration on our list](#)
- + [Other information about the Registry](#)



ABOUT THE REGISTRY

The National Registry of Exonerations is a joint project of the University of the Michigan Law School and the Center on Wrongful Convictions at Northwestern University School of Law.

Follow Us:  

Copyright 2012. All rights reserved.

<http://truthinjustice.org/dale-duke.htm>

Dallas man freed after 14 years for sexual assault

November 4, 2011

DALLAS, TX -- A Dallas man who spent 14 years in prison for doggedly refusing to admit he sexually assaulted his stepdaughter was set free Friday in a case that had been unraveling since the victim recanted and former prosecutors were accused of withholding evidence.

State District Judge Susan Hawk told Dale Lincoln Duke, 60, it was a "privilege" to release him, triggering applause and a standing ovation in a courtroom that included his parents.

"This is overwhelming," said Duke's 87-year-old father, George.

Hawk agreed with current Dallas County District Attorney Craig Watkins that Duke did not sexually assault the 7-year-old girl in 1992. In the intervening years, the victim has recanted her story, and Duke's attorney, Robert Udashen, earlier this year found that prosecutors in the 1990s had withheld evidence that cast doubt on the girl's credibility.

Duke had entered a no contest plea to the charge and received 10 years' deferred adjudication. But he was later kicked out of a counseling program for refusing to admit he committed the offense, so he was sentenced to 20 years in prison.

Asked after Friday's hearing why he refused to admit to the crime in the face of prison time, Duke said his faith in God precluded him from doing so.

"It says in The Word not to bear false witness," he said. "I had to do something I could live with."

The freed man, surrounded by family and friends, said he has no definite plans.

"I'm going to take it easy, relax a little bit, get back into society and see how things go," Duke said.

Under Watkins, the county has worked diligently to overturn false convictions, but Duke's case is a rarity in that it didn't hinge on DNA. Since 2001, 22 people have been exonerated in the county through DNA testing, a record unmatched nationally.

Udashen said the key to determining Duke's innocence was the discovery by Watkins' office in March of notes indicating that the victim's maternal grandmother thought the girl was lying.

By not turning over exculpatory evidence, the prosecutors who dealt with Duke's case in the 1990s engaged in prosecutorial misconduct, Udashen said. Those prosecutors are now deceased, as is the grandmother, the attorney said.

Watkins said the reversal of Duke's conviction represents how sometimes prosecutors are "more concerned with getting a conviction than doing what's right."

Watkins said the success of the DNA outcomes pursued by his office has created the public confidence necessary to examine cases where science is not the major factor.

"This case is a prime example of that," he said. "Thankfully, Mr. Duke kept fighting, which gave us the ability to look at his case."

After the hearing, both Hawk and Watkins shook Duke's hand.

"I'm glad to have you back in society," Watkins told Duke.

"Me too," Duke responded.

<http://www.dallassouthnews.org/2011/11/03/dale-duke-to-be-exonerated-of-1992-dallas-county-sexual-assault-case-on-friday/>

Dale Duke to be Exonerated of 1992 Dallas County Sexual Assault case on Friday



Posted by [shawnpwilliams](#) on Nov 3rd, 2011 and filed under [Featured](#), [Law and Justice](#), [Recent Posts](#).

By Shawn Williams

On Friday, Dale Duke will be a free man after serving almost 14 years in prison for a crime he didn't commit. Prosecutors from the Dallas County District Attorney's [Conviction Integrity Unit](#) will ask Judge Susan Hawk for a favorable finding of actual innocence for Mr. Duke.



(L) Russell Wilson, Head of Dallas County Conviction Integrity Unit and (R) Dallas County District Attorney Craig Watkins discuss most recent exoneration

Russell Wilson now leads the county's Conviction Integrity Unit, and this is the first exoneration since he took over in July. "It feels good," said Wilson who began to move forward with the exoneration process last week. "In every case our objective is to get to the truth," Wilson said.

On Thursday, Dallas County District Attorney Craig Watkins invited Duke and his attorney Robert Udashen to his office where he met them for lunch and apologized for what he's gone through. "We seek the truth, we seek justice," said Watkins, "In this case 14 years later, Mr. Duke will get his day in court."

Stepdaughter's Accusations

In 1992 Duke was married and had a good relationship with his wife and her daughter. But in April of 1992 he was indicted for aggravated sexual assault of a child.

Duke's stepdaughter claimed that he would molest her during the process of giving her spankings. In August of that same year, Duke waived his right to a jury trial and entered a plea of no contest. He refused to sign a judicial confession and was placed on deferred adjudication for a period of 10 years.

1997 Duke was discharged from sex offender treatment because he would not admit to committing the sexual assault against his stepdaughter. A judge sentenced Duke to 20 years in prison because he did not complete the ordered treatment program.

Witness recants

In 1998 the Dallas County District Attorney's Office learned that the complaining witness in the case recanted her accusations against Mr. Duke. That's when Robert Udashen began to represent him and worked to get his conviction overturned.

An interview by a former director and co-founder of the Dallas Children's Advocacy Center found the recantation to be credible. A polygraph test was used in helping to make that determination. Udashen took the case to the Texas Court of Criminal Appeals and all the way up to the United States Supreme Court but both refused to vacate Duke's conviction.

Watkins' Open File Policy



Dale Lincoln Duke (right) discusses his exoneration along with his lawyer (left) Robert Udashen

Mr. Udashen said Duke would have remained in prison were it not for Watkins' *open-file policy*. The D.A. instituted the policy in 2008 which allows for defense attorney's to have access to prosecutions files.

Even while going through the appellate process defense attorney's can request to see these files. This is not standard in most District Attorney's Offices.

Prosecutors who reviewed files involving Duke's case found that the witness' grandmother raised concerns about her original testimony. There was a feeling that the witness was encouraged by her aunt to accuse Duke of sexually assaulting her. This evidence should have been shared with Dukes' defense attorney but was not.

Duke and his attorney's did not have access to this information at the 1998 when they sought to appeal the conviction and it wasn't until March of 2011 that they were provided with the prosecutor's file. "I'm sad the system didn't work for Dale originally," said Udashen, "but I'm glad it's working for him now."

The original prosecutor's failure to provide critical information to the defendant coupled with overwhelming evidence that the initial allegations were false convinced me that Mr. Duke was wrongfully convicted.

Dallas County District Attorney Craig Watkins

Keeping the Faith

As Dale Duke sat in his prison grays with the smell of Eva's House of Barbecue in the air he seemed calm and relieved. He'd learned of his impending release just a couple of days before. "I'm probably in shock," said Duke who was preparing to eat his first good meal in 14 years. "They tell me there's a lot of stuff different (out) there," Duke said.



Watkins helps Duke prepare barbecue meal that was donated by Eva's House of Barbecue in South Dallas

He explained that despite spending years in prison for a crime he didn't commit, his faith remains strong. "God has a reason for it," Duke said, "I believe God ordained my life, that's how I get through the day."

His Christian roots go back to 1974, but he admitted he had some tough conversations with God about his situation. He [relied on Hebrews 13:5](#) (...never will I leave you, never will I forsake you) during his quite time.

Watkins has made a practice of meeting with exonees for breakfast or lunch before they have their ultimate day in court. His Conviction Integrity Unit is committed to making sure justice is truly served. "We're going to make sure the guilty are convicted and the innocent go free," Watkins said.

<http://www.dallassouthnews.org/2011/11/03/dale-duke-to-be-exonerated-of-1992-dallas-county-sexual-assault-case-on-friday/>

Dale Duke to be Exonerated of 1992 Dallas County Sexual Assault case on Friday

Odiggsdigg

70

EmailShareSharebar

Odiggsdigg

70EmailShareBy Shawn Williams

On Friday, Dale Duke will be a free man after serving almost 14 years in prison for a crime he didn't commit. Prosecutors from the Dallas County District Attorney's Conviction Integrity Unit will ask Judge Susan Hawk for a favorable finding of actual innocence for Mr. Duke.

(L) Russell Wilson, Head of Dallas County Conviction Integrity Unit and (R) Dallas County District Attorney Craig Watkins discuss most recent exoneration
Russell Wilson now leads the county's Conviction Integrity Unit, and this is the first exoneration since he took over in July. "It feels good," said Wilson who began to move forward with the exoneration process last week. "In every case our objective is to get to the truth," Wilson said.

On Thursday, Dallas County District Attorney Craig Watkins invited Duke and his attorney Robert Udashen to his office where he met them for lunch and apologized for what he's gone through. "We seek the truth, we seek justice," said Watkins, "In this case 14 years later, Mr. Duke will get his day in court."

Stepdaughter's Accusations

In 1992 Duke was married and had a good relationship with his wife and her daughter. But in April of 1992 he was indicted for aggravated sexual assault of a child. Duke's stepdaughter claimed that he would molest her during the process of giving her spankings. In August of that same year, Duke waived his right to a jury trial and entered a plea of no contest. He refused to sign a judicial confession and was placed on deferred adjudication for a period of 10 years.

1997 Duke was discharged from sex offender treatment because he would not admit to committing the sexual assault against his stepdaughter. A judge sentenced Duke to 20 years in prison because he did not complete the ordered treatment program.

Witness recants

In 1998 the Dallas County District Attorney's Office learned that the complaining witness in the case recanted her accusations against Mr. Duke. That's when Robert Udashen began to represent him and worked to get his conviction overturned. An interview by a former director and co-founder of the Dallas Children's Advocacy Center found the recantation to be credible. A polygraph test was used in helping to make that determination. Udashen took the case to the Texas Court of Criminal Appeals and all the way up to the United States Supreme Court but both refused to vacate Duke's conviction.

Watkins' Open File Policy

Dale Lincoln Duke (right) discusses his exoneration along with his lawyer (left) Robert

Udashen

Mr. Udashen said Duke would have remained in prison were it not for Watkins' open-file policy. The D.A. instituted the policy in 2008 which allows for defense attorney's to have access to prosecutions files.

Even while going through the appellate process defense attorney's can request to see these files. This is not standard in most District Attorney's Offices.

Prosecutors who reviewed files involving Duke's case found that the witness' grandmother raised concerns about her original testimony. There was a feeling that the witness was encouraged by her aunt to accuse Duke of sexually assaulting her. This evidence should have been shared with Dukes' defense attorney but was not.

Duke and his attorney's did not have access to this information at the 1998 when they sought to appeal the conviction and it wasn't until March of 2011 that they were provided with the prosecutor's file. "I'm sad the system didn't work for Dale originally," said Udashen, "but I'm glad it's working for him now."

The original prosecutor's failure to provide critical information to the defendant coupled with overwhelming evidence that the initial allegations were false convinced me that Mr. Duke was wrongfully convicted.

Dallas County District Attorney Craig Watkins

Keeping the Faith

As Dale Duke sat in his prison grays with the smell of Eva's House of Barbecue in the air he seemed calm and relieved. He'd learned of his impending release just a couple of days before. "I'm probably in shock," said Duke who was preparing to eat his first good meal in 14 years. "They tell me there's a lot of stuff different (out) there," Duke said.

Watkins helps Duke prepare barbecue meal that was donated by Eva's House of Barbecue in South Dallas

He explained that despite spending years in prison for a crime he didn't commit, his faith remains strong. "God has a reason for it," Duke said, "I believe God ordained my life, that's how I get through the day."

His Christian roots go back to 1974, but he admitted he had some tough conversations with God about his situation. He relied on Hebrews 13:5 (...never will I leave you, never will I forsake you) during his quite time.

Watkins has made a practice of meeting with exonees for breakfast or lunch before they have their ultimate day in court. His Conviction Integrity Unit is committed to making sure justice is truly served. "We're going to make sure the guilty are convicted and the innocent go free," Watkins said.