



## Patrick Waller

Patrick Waller spent nearly 16 years in Texas prisons for a crime he didn't commit before DNA testing proved his innocence in 2008. He was wrongfully convicted of robbery and kidnapping in 1992 after four people misidentified him in photo and in-person lineups.

### The Crime

On March 25, 1992, a Dallas couple was abducted at gunpoint by two men. The men forced themselves into the couple's car and had the couple drive the car to another neighborhood, forced them to withdraw \$200 from an ATM, and later to an abandoned house, where the abductors tied them up and sexually assaulted the woman.

During the assault, another couple unexpectedly drove up to the abandoned house. One of the abductors forced the second couple into the house, also at gunpoint, forced them to remove their clothes and tied them up as well. The perpetrators soon fled the scene, however, when a school district security officer happened to drive by the house. According to the victims' testimony, the two perpetrators drove away separately in the couples' two vehicles.

### The Investigation and Trial

One week after the abduction and rape, three of the four victims picked Patrick Waller out of a photo lineup. The fourth victim would later pick Waller out from a live lineup. Waller was identified by the first couple as the man who held the gun during the attack and who vaginally raped the female victim. They told police that the other man forced the victim to perform oral sex on him.

Waller, who was on probation for an unrelated incident, was arrested and charged with aggravated robbery and aggravated kidnapping. Although all four witnesses told authorities that there were two men involved in the crime, the Dallas Police Department never identified or charged a second suspect.

At Waller's trial, the four victims identified him as one of the men who attacked them. An analyst from the Southwestern Institute of Forensic Sciences also testified for the state. She said she had conducted blood type testing on a rape kit collected from the sexual assault victim, and had identified semen on a vaginal swab. She said Waller could not be excluded as a potential contributor of the semen, while 58% of the population could be excluded. Waller's girlfriend testified that she was with him for most of the night of the crime. Waller himself testified that he knew nothing about the crime and had not been involved.

Based on the eyewitness testimony and forensic evidence, Waller was convicted on all charges and was sentenced to life in prison.

### Post-Conviction Appeals and Exoneration

Waller was represented by private counsel throughout his appeals process, but DNA testing was finally conducted in his case in late 2007 as part of a case review conducted by the Dallas District Attorney's Office Conviction

<b>State:</b>	Texas
<b>County:</b>	Dallas
<b>Most Serious Crime:</b>	Kidnapping
<b>Additional Convictions:</b>	Robbery
<b>Reported Crime Date:</b>	1992
<b>Convicted:</b>	1992
<b>Exonerated:</b>	2008
<b>Sentence:</b>	Life
<b>Race:</b>	Black
<b>Sex:</b>	Male
<b>Age:</b>	20
<b>Contributing Factors:</b>	Mistaken Witness ID
<b>Did DNA evidence contribute to the exoneration?</b>	Yes
<b>:</b>	

Integrity Unit. DNA testing in the case was paid for by the Innocence Project of Texas. The results revealed a man's profile and excluded Patrick Waller as the perpetrator.

Officials then ran the profile through the national DNA database, and found a match to Byron Bell, a Dallas man serving a 45-year-sentence for a burglary that took place months after the abduction. Bell eventually confessed to the original crime when confronted about it and told police he had an accomplice, who police would soon learn was named Lemondo Simmons.

County officials told local press that Simmons, who had been convicted and incarcerated in 2002 for assault on a public servant and released in 2004, admitted to his role in the crime but could not be charged since the statute of limitations on the crime had passed.

Waller was freed on July 3, 2008, after serving more than 15 years in prison for a crime he didn't commit. He was later exonerated of all charges by the Texas Court of Criminal Appeals on September 24, 2008.

*Summary courtesy of the Innocence Project,  
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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.

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## DNA EXONERATION

12:00 AM CDT on Saturday, June 28, 2008  
By TIARA M. ELLIS / The Dallas Morning News  
[tellis@dallasnews.com](mailto:tellis@dallasnews.com)

One of the victims of a 1992 abduction, robbery and sexual assault said Friday he's unconvinced that a man recently cleared in the case through DNA testing should go free.

The DNA testing, two confessions and a polygraph test all show that Patrick Leondos Waller did not commit the robbery, kidnapping and rape for which he was blamed more than 15 years ago, Dallas county prosecutors and defense attorney Gary Udashen agree.

But one of the victims, who asked that he not be named to protect the identity of his now ex-wife who was with him the night of the crime, recalled Friday how the two of them were forced into a vacant house at gunpoint and robbed. The man identified Mr. Waller in court during the trial.

Despite the genetic evidence, the man is still not ready to say that Mr. Waller is completely innocent. He questions whether two men who recently confessed to the crime – but can't be prosecuted for it because the statute of limitation has expired – did so to protect Mr. Waller.

"What I don't like is that it automatically presumes him innocent," the man said, adding that in his opinion, Mr. Waller could still be guilty of the robbery even if he is no longer implicated in the sexual assault. "Just because it cleared Patrick of one thing, it does not clear him of the other."

At his trial in December 1992, Mr. Waller was convicted of aggravated robbery and sentenced to life in prison. He also pleaded guilty to two aggravated kidnapping charges in exchange for 30-year prison terms for each count.

Trial testimony showed that before the victim and his then-girlfriend – now his ex-wife – were abducted, two men had already kidnapped another couple from the West End. They were forced at gunpoint to an ATM and then taken to an abandoned building in Oak Cliff where the woman was raped.

Evidence shows that the second couple unwittingly showed up at the building to take pictures of it for a possible video shoot, the man said Friday. That's when they were forced inside.

Mike Ware, who oversees the Dallas County District Attorney's conviction integrity unit, said that six months ago DNA test results showed that Mr. Waller did not match DNA taken from a rape kit in the assault. But that did not fully clear Mr. Waller, 38, because the victim was sexually assaulted by two men.

DNA did connect Byron Demond Bell to the rape. In May, Mr. Bell, 38, was questioned about the 1992 incident at his parole officer's office, where he admitted to his role in the attack. He also named his co-conspirator, Lemondo Simmons, who later admitted to his role in the crime, Mr. Ware said.

Mr. Bell also passed a polygraph test about what he admitted to authorities.

"We had DNA, polygraph. We had sworn testimony where logically they had every motivation to tell the truth," Mr. Ware said. "That's all we were after was the unmitigated, historical truth."

Mr. Udashen has asked for a court hearing next week to re-consider Mr. Waller's conviction

because of the new evidence. He has also said that if Bill Hill, the Dallas County District Attorney when Mr. Waller originally asked for DNA testing in 2001, had not opposed it, Mr. Bell and Mr. Simmons might have been convicted for this case. At the least, Mr. Bell might still be in prison, he said.

Mr. Bell was sentenced to 45 years in prison for a burglary and received parole in February after serving 15 years. The parole board was not aware of his culpability in the 1992 offense, however, because his confession occurred after his release.

Mr. Hill could not be reached for comment.

John Rolater, who once oversaw DNA test requests for the Dallas district attorneys office and is now in the Collin County district attorney's office, said it's unfair to blame Mr. Hill for not approving DNA testing in Mr. Waller's case.

Prosecutors recommend whether they believe a request for DNA testing meets the statute allowing it. Then the judge rules on the information presented by prosecutors and defense attorneys, Mr. Rolater said.

"DAs are not the firewall on DNA testing," Mr. Rolater said. "It's the judge who makes the final decision. You have to meet the statute requirements and a judge has to agree."

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### Patrick Waller

**DNA testing, two confessions and a polygraph test all show that Patrick Leondos Waller did not commit the robbery, kidnapping and rape for which he was blamed more than 15 years ago, Dallas county prosecutors and defense attorney Gary Udashen agree. Patrick has been exonerated and released from prison, the 18th Dallas County, Texas convict cleared by DNA. But one of the victims refuses to believe Patrick is innocent. That's how deeply witnesses can come to believe their own faulty identifications.**

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