



Robert McClendon

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The Crime and Identification

On April 25, 1990, a 10-year-old girl was allegedly abducted from her Columbus, Ohio, back yard. She said that a man grabbed her, pulled her over a fence, tied a sock around her eyes and put her in his car. He drove to a nearby abandoned house, took the girl inside and raped her on a couch.

After the assault, the man took the girl in his car to a convenience store and went inside. While he was inside, the girl jumped from the car and ran home. She didn't tell her mother about the attack until the next day, when her mother noticed that she was acting and walking strangely. According to the mother's testimony at McClendon's trial, the girl said at this time that her biological father, Robert McClendon, had abducted and assaulted her the previous day.

The victim was taken to a hospital where a rape examination was conducted, and doctors confirmed that the girl had been assaulted. When asked in the hospital who had attacked her, the victim said "I think it was my dad but I may be wrong because my eyes were covered." According to court documents, the victim had only seen McClendon once in her life before the day of the assault.

A limited lab test failed to identify the presence of semen on the swabs collected in the hospital or on the victim's underwear. No DNA testing was performed.

McClendon was charged with kidnapping and rape in May 1990. While awaiting trial in early 1991, he took a lie-detector test on the condition that the results be admitted as evidence in court. A State Highway Patrol examiner found that his answers "could be a deliberate attempt at deception." McClendon waived his right to a jury trial, and his bench trial began on August 26, 1991.

The Trial

The main evidence against McClendon at trial were the testimony of his daughter, who identified McClendon as her attacker, and the state's allegation that he had failed a polygraph examination. Defense lawyers presented alibi witnesses, who said McClendon was driving around with a friend at the time of the crime.

On August 28, 1991, Judge David L. Johnson found him guilty of rape and kidnapping. He was sentenced to 15 years to life in prison.

Post-Conviction Appeal and Exoneration

In 2004, McClendon filed for DNA testing on evidence collected from the crime scene. Prosecutors opposed the testing, saying there was no evidence

State:	Ohio
County:	Franklin
Most Serious Crime:	Child Sex Abuse
Additional Convictions:	Kidnapping
Reported Crime Date:	1990
Convicted:	1991
Exonerated:	2008
Sentence:	15 to Life
Race:	Black
Sex:	Male
Age:	34
Contributing Factors:	Mistaken Witness ID
Did DNA evidence contribute to the exoneration?	Yes
:	

to test because tests in 1990 were negative for semen. McClendon then filed a motion in state court seeking DNA testing, but a Franklin County judge never responded to McClendon's request.

In 2007 and 2008, the Ohio Innocence Project worked closely with reporters at the Columbus Dispatch to evaluate cases of Ohio defendants who claimed to be wrongfully convicted and had been denied access to DNA testing in the past. McClendon's case was one of 30 chosen for representation by the Ohio Innocence Project and pro bono DNA testing by an Ohio lab. In response to requests from the Ohio Innocence Project, Franklin County prosecutors searched for the evidence in McClendon's case and found that the rape kit had been lost or destroyed, but the victim's underwear had been preserved. They agreed to conduct testing in April 2008. Three months later, test results came back showing that another man had committed the assault. McClendon was free on August 12, 2008 after serving nearly 17 years in prison for a rape he didn't commit.

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- + [Correct an error or add information about an exoneration on our list](#)
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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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Robert McClendon



Incident Date: 4/25/90
Jurisdiction: OH
Charge: rape, attempted rape, kidnapping
Conviction: rape, kidnapping
Sentence: 15 Years - Life

Year of Conviction: 1991
Exoneration Date: 8/26/08
Sentence Served: 17 Years
Real perpetrator found? Not Yet
Contributing Causes: Eyewitness Misidentification
Compensation? Not Yet

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Post-Conviction Appeal and Exoneration

In 2004, McClendon filed for DNA testing on evidence collected from the crime scene. Prosecutors opposed the testing, saying there was no evidence to test because tests in 1990 were negative for semen.

McClendon then filed a motion in state court seeking DNA testing, but a Franklin County judge never responded to McClendon's request.

In 2007 and 2008, the Ohio Innocence Project worked closely with reporters at the Columbus Dispatch to evaluate cases of Ohio defendants who claimed to be wrongfully convicted and had been denied access to DNA testing in the past. McClendon's case was one of 30 chosen for representation by the Ohio Innocence Project and pro bono DNA testing by an Ohio lab. In response to requests from the Ohio Innocence Project, Franklin County prosecutors searched for the evidence in McClendon's case and found that the rape kit had been lost or destroyed, but the victim's underwear had been preserved. They agreed to conduct testing in April 2008. Three months later, test results came back showing that another man had committed the assault. McClendon was free on August 12, 2008 after serving nearly 17 years in prison for a rape he didn't commit.

Franklin County, OH	Robert McClendon	Apr 25, 1990 (Columbus)
<p>Robert McClendon was convicted of raping his 10-year-old daughter, Rahshea Knaff. Knaff reported that she was abducted from her backyard by a man who tied a sock over her eyes. The man then took her to a abandoned house nearby and raped her. Afterwards the man took her to a convenience store and went inside, leaving her alone in the car. While he was inside, Knaff jumped from the car and ran home.</p> <p>Knaff did not tell her mother about the assault until the next day, when her mother noticed she was acting and walking strangely. According to her mother's testimony, Knaff identified her assailant as her biological father, Robert McClendon. Knaff was taken to a hospital which confirmed she had been assaulted. When asked who assaulted her, she said, "I think it was my dad but I may be wrong because my eyes were covered." Testimony indicated that Knaff had only seen her father once in her life before the assault.</p> <p>McClendon was convicted due to his daughter's testimony and due to the state's allegation that he had failed a polygraph test. Years later in 2008, DNA tests were performed which showed that another man committed the assault. McClendon was subsequently exonerated. (IP) (Columbus Dispatch) [6/09]</p>		

<http://wrongfulconvictionsblog.org/2012/02/23/the-polygraph-and-false-confessions/#more-728>

1. *Mark Godsey* | [February 23, 2012 at 3:47 pm](#) | [Reply](#)

You raise a good point, Marty. Three of our clients, including Clarence Elkins and Robert McClendon, were told they failed polygraphs after the crime occurred. DNA testing later proved them innocent. The risks are high, and the ability to manipulate the result is too high as well. When I was a prosecutor, if the suspect took a handwriting test and the “handwriting expert” could not match the sample to the handwriting found in the documentary evidence, the expert could sometimes testify that that the suspect appeared to be manipulating his handwriting, and was writing in an unnatural way, in order to make a match unlikely. There was no science to that, and it was entirely subjective, yet it could have a big impact with the jury. Not on point with polygraphs, but it just goes to demonstrate the lack of science and the ability to manipulate results with some of this stuff.

<http://www.danielbolick.com/exonerated/11robertmccleendon.html>

ROBERT McCLENDON: SENTENCED TO LIFE IN PRISON FOR A RAPE AND KIDNAPPING HE DID NOT COMMIT

Robert McClendon spent 17 years in prison for the rape and kidnapping of his own ten-year-old daughter. Crimes he did not commit. Allegedly he told the girl that he was her father. She believed him because he looked like a man in some of her mother's photos. When questioned by authorities as to who attacked her, the girl said "I think it was my dad but I may be wrong because my eyes were covered." She had only actually seen him one time in her entire life.

A limited lab test in 1990 failed to find any physical evidence during an examination of the girl at a hospital soon after the rape occurred. There was also no evidence found on the victim's underwear. DNA testing was not performed.

In 1991, he took a lie detector test administered by an Ohio State Highway Patrol examiner and it was declared that his answers "could be a deliberate attempt at deception."

The only evidence against Robert at his trial was the testimony of his daughter and the state's accusation that he had failed the lie detector exam. He had solid alibi witnesses who could account for his whereabouts at the time of the rape. Still, he was sentenced to 15 years to life in prison.

In 2004 Robert filed a motion in state court seeking DNA testing of the rape victim's underwear. A Franklin County judge never even bothered to respond to his motion.

In 2007 and 2008, working closely together, the Ohio Innocence Project and reporters from the Columbus Dispatch along with an Ohio lab who DNA tested the evidence for free, found that the semen that was found on the victim's underwear could not have come from Robert. Another man had committed the rape. Robert was set free on August 12, 2008.

Convicted: 1991

Exonerated: 2008

'Hello, truth!'

Robert McClendon has been in prison for 18 years for a rape he says he didn't commit. Now, DNA evidence newly available in the case shows he is telling the truth.

Wednesday, July 23, 2008 3:12 AM
By Geoff Dutton and Mike Wagner

CHILLICOTHE, Ohio -- Inmate Robert McClendon walked into a prison conference room yesterday with calm confidence, greeting his legal team with smiles and handshakes.

During 18 years in prison, the Columbus man has steadfastly denied the rape that put him there -- claims from a former drug dealer that few took seriously.

Now, he has a favorable DNA test.

The Ohio Innocence Project delivered the test results yesterday. The semen on the 10-year-old victim's underwear could not have come from McClendon.

"Hello, truth!" he exclaimed. With steely eyes and a choked voice, he added, "I never, ever raped anyone."

But afterward, McClendon, 52, was returned to his cell at the Chillicothe Correctional Institution.

What happens next is unclear.

Franklin County Prosecutor Ron O'Brien said he was reviewing the report and would discuss the findings today with the lab and the Ohio Innocence Project, a University of Cincinnati-based legal clinic that represents McClendon.

O'Brien said he would consult with the victim's mother and might request additional testing. "That's probably the next logical step."

Innocence Project lawyers said the results moved McClendon one step closer to freedom. "We're thrilled with the results, but have no further comment at this time as we're in discussions with prosecutors on how to resolve the case," Jennifer Paschen Bergeron said.

"Hopefully, we can get you out soon," she told McClendon.



Robert McClendon now awaits word from prosecutors and a judge on whether he can go free

A judge would have to sign any agreement or settle disputes between McClendon's attorneys and prosecutors. Common Pleas Judge Charles A. Schneider is presiding. McClendon invited The Dispatch to hear the results with him. McClendon's case was highlighted in "Test of Convictions," a five-day series in January that exposed flaws in Ohio's prisoner DNA-testing program and identified 30 cases that were prime candidates for testing.

The Dispatch built files on the more than 300 prisoners who applied for testing, almost all of whom had previously been denied. The newspaper re-examined them with the Ohio Innocence Project's team of professors and law students.

DNA Diagnostics Center, a Cincinnati-area lab, volunteered to test the cases free. Prosecutors and judges have since granted testing in 15 cases, more than had been tested in the five-year history of the program.

McClendon's is the first result.

"I'm just overwhelmed with excitement for my dad," said his daughter, Nicole Miller, of the Northeast Side. "From Day One, he has said he is innocent, and he has never backed down.

"Now that it is confirmed, I want the world to know he was convicted by an 18-year-old lie. It's so hard thinking about how much he missed."

The Dispatch could not reach the rape victim and her mother for comment.

In McClendon's case, authorities had long since lost or thrown away swabs from the victim's medical exam -- typically the best evidence for testing rape cases -- but agreed to provide the underwear.

They were openly skeptical. The Columbus police lab had searched for semen on the underwear in 1990 but didn't find any.

Moreover, McClendon failed a lie-detector test before he was charged. He also was an admitted drug dealer with a long criminal history.

He was charged with rape in 1974 but ultimately was convicted of attempted corruption of a minor for having sex with a 15-year-old girl when he was 19. He received probation.

Then, in 1990, he was charged with the rape that sent him to prison for 15 years to life. Prosecutors said McClendon took a 10-year-old female relative from her backyard, blindfolded her, drove her to a house and raped her. Then he drove her home.

The victim reported the rape the next day and was taken to a hospital. Her stepfather later delivered her underwear to investigators.

This month, DNA Diagnostics used the latest testing technology, which is exponentially more powerful than what was available at the time of the crime. Analysts found faint traces of semen, tested them and obtained a

clear genetic profile.

Last week, a lab worker swabbed McClendon's cheek for comparison. At that point, McClendon said the suspense had ended for him.

"I knew it wouldn't be a match for me," McClendon said. "My worst fear was it being inconclusive."

The DNA profile from the semen can't be entered into the national database of convicted felons to look for a match with somebody else. This newer, more sensitive testing technique isn't compatible. But if a suspect were identified, his DNA could be compared with additional testing.

For years, McClendon has longed for freedom but at the same time feared being paroled, because Ohio law requires a convict to be incarcerated to qualify for DNA testing. The parole board denied him early release again in 2007.

"It was a blessing in disguise when the parole board denied me," he said. "They wanted me to go to a sexual program ... where you had to admit (the rape). I flat-out refused.

"I haven't been no angel," he added, "but doing time for something you didn't do, it's 10 times worse."

<http://www.texascriminaldefense.com/comments/September08/01a.htm>

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Comments on Current Events In Criminal Law from the Federal Criminal Courts in Texas

September 01, 2008

DNA FREES ANOTHER INMATE WRONGFULLY CONVICTED OF RAPE

False Allegations of Rape, Convictions Based Exclusively on Uncorroborated Testimony

18 years ago Robert McClendon, then 34 years of age, was convicted and sentenced to 15 years to life in Franklin County, Ohio for allegedly raping a 10-year-old girl. Prosecutors charged that McClendon took a 10-year-old relative from her backyard and drove her to another house where he raped her. There was no physical evidence linking him to the alleged rape. The prosecution relied almost exclusively on the testimony of the child victim. The prosecution's belief that it had the "right man" was influenced by the fact that McClendon, when he was 19 years of age, had been convicted of "corruption of a minor" involving consensual sex with a 15-year-old girl.

McClendon would have spent the rest of his life in prison. He had already been denied parole release in 2007. Parole release is nearly impossible for an inmate who refuses to acknowledge his guilt for the crime for which he stands convicted. But then in 2007 two law students, Dan O'Brien and Mike Harrington, who were working with the Ohio Innocence Project based with the University of Cincinnati Law School, were assigned McClendon's case. They called the prosecutor's office and learned that a pair of underpants worn by the victim had been sitting around the prosecutor's office for years.

The Ohio Innocence Project, joined by the Columbus Dispatch newspaper, started applying pressure to have McClendon's DNA compared to samples found in the victim's underwear. Testing ultimately demonstrated that McClendon's DNA did not match the DNA in the victim's underpants.

Earlier this year two other UC law students, Megan Tonner and Courtney Cunningham, took over the case for the Innocence Project. They filed a motion for a new trial. On August 11,

2008 state District Court Judge Charles Schneider granted the motion and ordered McClendon freed from prison.

"You know, you go through times where you feel it might not happen, but you never, ever give up hope," McClendon was quoted by Associated Press after his release. "You don't ever use the word, 'never happen.' It's not healthy."

August 11, 2008

Judge frees convicted Ohio rapist after DNA test

By STEPHEN MAJORS

COLUMBUS, Ohio (AP) — A judge freed a man Monday who had spent nearly 18 years in prison on a charge of raping a 10-year-old girl after a lab re-examining cases across Ohio showed that his DNA profile didn't match evidence from the crime scene.

Robert McClendon, 52, was released by Franklin County Common Pleas Judge Charles Schneider, who cited the DNA test.

Jennifer Bergeron, a lawyer with the Ohio Innocence Project, said she expects prosecutors to formally drop charges against McClendon within the next two weeks.

"To be in prison for 18 years for something you didn't do and then know you are going to walk out of court a free man, that's a lot to take in in one day," Bergeron said.

Franklin County Prosecutor Ron O'Brien said he didn't think the case would go to a new trial.

McClendon planned to go to the home of a relative in Columbus on Monday to celebrate his release at a dinner with about 50 supporters, friends and relatives, said Mark Godsey, faculty director of the Innocence Project.

McClendon, who denied raping the girl, was convicted in 1991 and sentenced to 15 years to life in prison. He was denied parole in 2007.

DNA Diagnostics Center, a lab north of Cincinnati, agreed to conduct tests on McClendon and other inmates for free as a public service after The Columbus Dispatch published a series in January featuring 30 inmates whose applications for new DNA testing had been stalled.

The newspaper's investigation also found flaws in the state's DNA testing system: Police and courts routinely discard evidence after trials, and prosecutors and judges often dismiss inmate applications for DNA testing without a stated reason.

In McClendon's case, authorities had long since lost or thrown away swabs from the victim's medical exam — typically the best evidence for testing rape cases — but agreed to provide the lab with the girl's underwear.

Using new technology unavailable at the time of the crime, the lab found faint traces of semen that didn't match McClendon's DNA profile, the Innocence Project announced last month.

Prosecutors said McClendon took a 10-year-old relative from her backyard, blindfolded her, drove her to a house and raped her. The victim reported the rape the next day and was taken to a hospital.

McClendon was convicted largely on the victim's testimony, Bergeron said. There was no physical evidence to tie him to the crime, she said.

McClendon was convicted in the 1970s of attempted corruption of a minor for having sex with a 15-year-old girl when he was 19.