



## Steven Barnes

In 1989, Steven Barnes was convicted in upstate New York of a murder he didn't commit based on questionable eyewitness identifications and three types of unvalidated forensic science. Nearly two decades later, DNA testing obtained by the Innocence Project proved his innocence and he walked out of the Utica courthouse a free man on November 25, 2008.

### The Crime

On the evening of Sept. 18, 1985, 16-year-old Kimberly Simon left her Marcy, New York, home walking to meet a high school friend. The next day, police officers found her body near the side of a dirt road. She had been raped and strangled to death.

### The Investigation

Several people in Utica told police that they had seen Simon walking along a busy street between 5:30 and 6 p.m. Others said they saw Steven Barnes' distinctive truck on that road around the same time. He became a suspect based on these vague statements from eyewitnesses.

One man, in police custody for an unrelated incident, testified that he was riding in a police vehicle when he saw the victim walking on the road and saw a truck similar to Barnes' truck nearby. A Utica police officer said he saw a young man matching Barnes' description parked alongside the street that night. Steven's brother-in-law testified that he saw a young woman getting into a truck along the road that was clearly not Barnes' truck. Others said they saw Barnes at a local bowling alley through the evening of the murder.

Barnes was questioned 12 straight hours on September 21, three days after the victim was last seen. He said that he had driven to a bowling alley at 6 p.m. on the night of the crime and didn't know anything about the murder. He was given a polygraph test – which investigators said was inconclusive – and police checked his truck for fingerprints and trace evidence. He was released without charges at that time. More than two years later, however, investigators were still working on the case and asked Barnes to submit blood, saliva and hair samples. He was arrested in March of 1988, more than two years after the crime, and charged with rape, sodomy and murder.

### The Trial and Forensic Evidence

Barnes was tried by a jury in Utica beginning on May 15, 1989. A forensic analyst testified at his trial that no fingerprints collected from Barnes' truck matched the victim's. Although tire print comparison has never been a validated forensic practice, the tracks from the crime scene were compared with Barnes' truck tires and investigators determined that they did not match.

Serological evidence was introduced at trial and also did not point to Barnes. Dr. Elaine Pagliaro, the supervising criminalist at the Connecticut State Police Forensic Laboratory, testified that seminal fluid was detected on the victim's underwear and on swabs taken from her body and that serology testing was

**State:** New York

**County:** Oneida

**Most Serious Crime:** Murder

**Additional Convictions:** Rape, Sexual Assault

**Reported Crime Date:** 1985

**Convicted:** 1989

**Exonerated:** 2009

**Sentence:** 25 to Life

**Race:** Caucasian

**Sex:** Male

**Age:** 19

**Contributing Factors:** Mistaken Witness ID, False or Misleading Forensic Evidence, Perjury or False Accusation

**Did DNA evidence contribute to the exoneration?** Yes

conducted. The results matched the victim's blood type, and were inconclusive regarding Barnes, who is a non-secretor (his blood type is not revealed from bodily fluids such as semen and saliva). DNA testing conducted before trial was inconclusive.

Three forms of unvalidated forensic science were used against Barnes at trial, however. Pagliaro testified that she conducted a photographic overlay of fabric from the victim's jeans and an imprint on Barnes' truck and determined that the two patterns were similar. The state then entered testimony from a self-employed manufacturers' representative who told the court that the stitching on the brand of jeans the victim wore was unique and that as many as 200 pairs may have been sold in Oneida County, New York, in 1985.

Pagliaro also testified that two hairs collected from Barnes' truck were microscopically "similar" to the victim's hairs and dissimilar from Barnes' hair. She added that no hairs similar to Barnes' samples were found on the victim's body. Pagliaro's lab also compared soil samples taken from Steven's truck with dirt samples taken from the crime scene a year after the murder and testified that they had "similar characteristics." Microscopic hair analysis, soil comparison and fabric print analysis have not been validated scientifically. Because there is not adequate empirical data on the frequency of various class characteristics in human hair, soil samples or imprints, the analyst's assertion that these items of evidence were consistent or similar is inherently prejudicial and lacks probative value.

The state also introduced the testimony of a jailhouse informant, who said Barnes confessed to him while in jail awaiting trial more than two years after the crime. The informant, Robert Stolo, was in custody on forgery and larceny charges. He met Barnes at the jail and they were on the same cell block for about a week. Stolo told the court that he talked with Barnes along with another inmate, who had asked Barnes about some girls and Barnes purportedly asked in return, "You mean the one that I killed?" then corrected himself by saying, "I mean the one that I am accused of killing?" Stolo, however, was housed for that week several cells away from Barnes and couldn't remember when or where this conversation happened. Stolo testified that he didn't expect a lighter sentence for his testimony, and that he received a one-year sentence for his conviction.

Barnes' attorney called several witnesses who testified that he was at a local bowling alley at the time the crime was allegedly committed. He was convicted of rape and murder and sentenced to 25 years to life in prison.

### **Post-Conviction Appeals and Exoneration**

The Innocence Project began representing Barnes in 1993 and secured DNA testing on his behalf in 1996. The Oneida County District Attorney consented to conducting DNA tests on evidence from the crime scene, but those tests were inconclusive because the DNA technology at the time did not yield a profile. A decade later, in 2007, the Innocence Project reopened the case, and Oneida County District Attorney Scott McNamara agreed to conduct DNA testing. This round was conducted using Y-STR testing, an advanced technology that had not been previously available.

The new tests yielded conclusive results on sperm cells from the victim's body and clothing – none of which matched Barnes. After serving almost two decades in prison for a murder and rape he didn't commit, Barnes was freed on November 25, 2008. His exoneration became official on January 9, 2009, when prosecutors announced that they were dropping all charges. Shortly after his exoneration he celebrated his 43rd birthday – the first one at home in two decades.

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### Steven Barnes

Steven Barnes of Utica, NY was convicted of rape and second-degree murder in the strangling death of Kimberly Simon, a high school student, in 1985. At his trial, a crime lab analyst testified that impressions on Barnes' truck matched Ms. Simon's jeans, a conclusion that simply cannot be supported by science. Tests concluded in mid-November, 2008 showed that Barnes' DNA matched none of four samples found on Kimberly Simon's body and clothing. After almost 20 years in prison, Steven Barnes has been released from prison.

## With exoneration, police resume hunt for Simon murderer

Wednesday, November 26, 2008

By Glenn Coin, Staff writer

Steven Barnes stood, free of handcuffs and out of state custody for the first time in nearly 20 years, and embraced his mother and sister.

A man's voiced boomed from the back of the courtroom: "Barnes you're home where you belong, buddy!"

Barnes had spent nearly two decades in prison for a murder he didn't commit. It took a judge just six minutes Tuesday to set him free.

"Mr. Barnes, I rule that you be released immediately," Oneida County Court Judge Michael Dwyer told Barnes, who had been in state prison since 1989 for the murder of a 16-year-old girl.

Friends and family who had jammed the courtroom in Utica erupted into applause.

Barnes was convicted of rape and second-degree



Steve Barnes who was released after serving 20 years for a rape and murder that he did not commit, is hugged by his sister Lisa Pawloski, Tuesday in Utica. At right is his mother, Sylvia Barnes.

murder in the strangling death of a Whitesboro High School student. Tests concluded last week showed that Barnes' DNA matched none of four samples found on Kimberly Simon's body and clothing.

Barnes' lawyers from the Innocence Project, in New York City, and Oneida County District Attorney Scott McNamara jointly asked for Barnes' release.

At a news conference shortly after the court hearing, Barnes answered questions for about 20 minutes in a soft voice with short sentences.

"I never gave up hope," said Barnes, his sandy brown hair flecked with gray at the temples. "I waited 20 years for this. It's the happiest day of my life."

Barnes said he doesn't know what the Internet is or how to use a cell phone. His mother, Sylvia Barnes Bouchard, said her son didn't believe her when she told him how caller ID works.

Barnes' years behind bars did not steal his sense of humor. After noting he had spent most of his 20s and all of his 30s in prison, Barnes said: "Life begins at 40, they say."

Family and friends who came to Utica Tuesday morning said they always knew he was innocent.

"In my heart, I knew this would happen," said his sister, Michelle Weiler, of Rochester.

Many of the people in the courtroom Tuesday had testified on Barnes' behalf at the trial 19 years ago. Steve Lewandrowski said on the stand in 1989 that the night of the murder Barnes had been drinking with him in the Marcy bowling alley that Lewandrowski owned.

"They were just looking for a conviction," Lewandrowski said. "Steve was in the wrong place at the wrong time."

McNamara said he didn't believe prosecutors engaged in misconduct. If current DNA technology had existed in 1985, he said, Barnes would never have been arrested.

The Innocence Project asked for DNA tests when it got involved in Barnes' case in 1996, but the samples had deteriorated too much for the results to be conclusive. Earlier this year, at the urging of Barnes' brother, Shawn, project lawyers asked for new tests using techniques developed in the past few years.

What those tests showed, McNamara said, was that the DNA samples taken from Simon's body

using a rape kit and two samples from her clothing did not match Barnes' DNA.

During the three-week trial in 1989, several witnesses testified that they saw Simon climb into a brown or maroon pickup truck, similar to one owned by Barnes. Others said they saw a man who looked like Barnes standing near a pickup truck in the area where Simon's body was found at about the time police believe she was killed.

Simon's body was found Sept. 18, 1985, in a ditch off Mohawk Street, in Marcy. Barnes was indicted by a county grand jury two and a half years later.

At the time, prosecutors said the case was circumstantial but argued there were too many coincidences.

One of the lawyers who appeared in court Tuesday for Barnes was Barry Scheck, a DNA expert who helped win O.J. Simpson's acquittal on murder charges in 1996. Scheck co-founded the Innocence Project in 1992 at Cardozo Law School, in New York City; since then, the project has helped win freedom for more than 200 people.

Scheck said Barnes' case raises questions about how far forensic experts can go in their testimony. At the trial, he said, an expert said that impressions on Barnes' truck matched those of the victim's jeans. There simply isn't enough science to support that kind of testimony, Scheck said.

The sad part, McNamara said, is that the release of Barnes means that the real killer has never been brought to justice. McNamara said his office and state police are investigating the case.

The indictment against Barnes remains in place while that investigation is ongoing. McNamara said he called Simon's family last week to tell them of the DNA results.

"It's probably one of the most difficult things I have had to do, to call the family to tell them someone who had been brought to justice for the brutal assault and death of their daughter was wrongly convicted," McNamara said.

The DA's office received the DNA test results last week and shared them with the Innocence Project lawyers.

Friday, Bouchard said, she received a call from Alba Morales, an Innocence Project lawyer working on Barnes' case, telling her he would be home for Thanksgiving.

Bouchard said she spent more than \$100,000 on her son's defense and the effort to free him.

It was all worth it Tuesday as Barnes, his mother and three siblings stood together for the first time in 20 years. His father died when Barnes was 15.

"I'd like to just sit down and have a nice meal with my family," Barnes said. "I haven't used a fork or knife in 20 years."

Barnes said he didn't know if he would file suit over his conviction. Scheck noted that Barnes is entitled to bring a case in the state Court of Claims.

Barnes said he might someday like to work with the Innocence Project to free other innocent people. But he has more modest plans this week, when he joins his family for his first Thanksgiving since 1988:

"I'm just going to sit down at the table and say grace and say, 'I'm going to cut the turkey.' "

[http://webcache.googleusercontent.com/search?q=cache:n-TcrW-75hkJ:wewereallincarcerated.com/wewereallincarcerated/HOME\\_files/Download%2520the%2520script.rtf+%22steve+barnes%22+polygraph&cd=7&hl=en&ct=clnk&gl=us](http://webcache.googleusercontent.com/search?q=cache:n-TcrW-75hkJ:wewereallincarcerated.com/wewereallincarcerated/HOME_files/Download%2520the%2520script.rtf+%22steve+barnes%22+polygraph&cd=7&hl=en&ct=clnk&gl=us)

Storm: Mohawk Street is a busy thoroughfare that connects Whitesboro and Marcy, sleepy, middle-class suburbs of Utica in Upstate New York. Not far from where the road crosses the sluggish Mohawk River, down in the underbrush, just off the road, right there, is the spot where 16-year old Kim Simon's battered and partially naked body was found on September 19<sup>th</sup>, 1985. In 1989, **Steve Barnes**, a fellow Marcy resident and former classmate of Kim's at Whitesboro Senior High, was convicted of her rape and murder and sentenced to 25 years to life in state prison. The problem was... he didn't do it.

Barnes: I was called a liar, murderist, rapist.

Bouchard: They didn't have anything to really arrest him, let alone convict him.

Barnes: People I thought were my friends, they weren't my friends.

Morales: It was just unbelievable to me that this man was convicted.

Golden: There always has been kind of a feeling on the part of too many jurors that he must be guilty, otherwise he wouldn't be there.

Barnes: I had to fight for my whole life, for twenty years, to prove my innocence.

Bouchard: We got through it as a family. We never quit trying, we never quit praying, and we never, ever gave up hope. Ever.

Barnes: It can happen to anybody, what happened to me.

Bouchard: We were all incarcerated.

Golden: The most conservative sources seem to indicate that about one percent of all prisoners actually were wrongfully convicted.

Storm: Larry Golden is an attorney in Utica, New York, and a member of the New York State Bar Association's Task Force on Wrongful Convictions.

Golden: Probably the more realistic figures are in the three to five percent range if you look at a variety of sources.

Storm: With America's prison population at more than two-million inmates, that means as many as 100,000 prisoners today may be incarcerated for crimes they did not commit. As **Steve Barnes** says, it can happen to anybody. But how did it

happen to him? To understand that, it might help to understand the place where **Steve Barnes** and Kim Simon grew up. Marcy is a large, predominantly rural town, dotted with clusters of residential subdivisions. In 1985, fewer people lived in Marcy than do today, but even then, it was a fairly typical American town: a place of backyard barbecues and little league games.

Lewandrowski: We have a saying that we got on the bus in first grade and never looked back.

Storm: Ed Lewandrowski, Steve's longtime friend.

Lewandrowski: That's when we met. At St. Paul's School in Whitesboro. First grade.

Storm: Steve's mom, Sylvia Bouchard.

Bouchard: Actually, Steve was a little bit on the shy side. He was very fun loving, and, you know, always good in sports. He played football; he was an altar boy, he went through catholic school. He was always willing to help around the house, just a typical all-American kid.

Lewandrowski: He's a great guy. He'd do anything for anybody, always hardworking, always very friendly, really has a big heart.

Pawloski: We used to go out for hours and hours riding the snowmobile. We had this one dog that would follow us literally for hours, no matter where we went, miles and miles and miles. I'm Lisa Barnes-Pawloski, and I am **Steve Barnes'** sister. Summertime, we went up to the Marcy Pool for swimming lessons in the morning, freezing cold weather, and then rode our bikes back in the afternoon and swam all afternoon.

Storm: Marcy was a quiet town, where Steve had had a normal childhood, and where people felt safe. But on a warm September evening in 1985, that sense of security was severely shaken, and Steve's life was changed forever.

Utica Observer-Dispatch report, September 20, 1985: Kimberly M. Simon, 16, whose body was found off a lonely dirt road yesterday, was strangled, Oneida County District Attorney Barry M. Donalty said today. Simon's body... (fades out)

Storm: At around 6pm on September 18<sup>th</sup>, 1985, Kim Simon left her home in Marcy on Route 49, also known as River Road, and began walking down Mohawk Street toward Whitesboro. She planned to meet a friend at the Whitesboro Junior High School, about two miles from her home, and then go for pizza. She never made it. When she didn't return home that evening, her parents

notified police, who found her body the next day near the side of a dirt road off Mohawk Street.

Kaminski: The day after the homicide...

Storm: Edward Kaminski is a Utica attorney, the first lawyer hired to represent Steve.

Kaminski: They had a roadblock on Cavanaugh Road and River Road.

Storm: Cavanaugh Road becomes Mohawk Street on the south side of its intersection with Route 49 (or River Road).

Kaminski: And Steve lived on Cavanaugh Road above the roadblock area. He came through the roadblock initially; they asked him if he knew anything, he said, "I didn't see anything. I don't know anything." Fine.

Barnes: They were looking for her; they were showing pictures on the corner of 49 and Mohawk Street. They asked me if I seen this girl Kim, I said, "No."

McNamara: He went through the roadblock, cooperated with the police, went through the roadblock another time, cooperated with the police.

Storm: Although current Oneida County District Attorney Scott McNamara was not involved in Steve's prosecution, he's familiar with the details of the case.

McNamara: The third time that he had to go through the roadblock, because he lived on the road, he went around the roadblock.

Storm: Steve had simply decided to stop for a six pack of beer. He had just passed the beverage store, so he turned around by cutting through the parking lot of a convenience store on the other side of the street.

Barnes: And there was an unmarked cop car on the payphone there. I just cut through the parking lot, not thinking nothing of it.

Kaminski: He just avoided it. That set off all kinds of alarms. "Oh my God. Why is this guy trying to avoid the roadblock?"

McNamara: When he did that, the police noticed it. They put a lot of weight on that. I don't know if I would, but they did. And he then became a person of interest, so to say, because of that. They started interviewing him.

Barnes: Then, ever since that day, it just kept going.

Barnes: I was 19-years-old at the time. Three days after the murder they called me up and asked me to come over. I said, "No problem." For about the first hour, they were all nice, you know. Then after that, they verbally harassed me for hours, asked me where I was on this night. Two officers came in, looked me in the eye, slammed their hand on the desk and said "you did this." I would argue right back with them, you know, and they fingerprinted me, they took pictures of me.

Bouchard: I came home that evening and Steve wasn't home, and it was kind of strange he hadn't called in, and he hadn't come home for dinner, and I was getting kind of nervous. And of course that was in the day before cell phones.

Barnes: I asked for phone calls. I asked to call my mom; I was gone all day. They said I never asked for one.

Bouchard: What 19-year-old kid, when he's getting questioned for a murder, is not going to call his family? He asked for his family lawyer; they wouldn't make him a phone call. All day long, they had him, like, there for 12 hours' interrogation. Never let him call anybody.

Barnes: And then they took me to Oneida, the trooper's barracks, and I took a **polygraph** test. And then I went home.

Bouchard: And it was like 11 o'clock at night, and he came knocking on our bedroom door. And he goes, "Mom, you gotta get up. I gotta problem" And I opened up the door, and I said, "What's the matter?" And he said, "I've been at the Sheriff's Department all day." I go, "For what?" He said, "They're questioning me for Kimberly Simon's murder."

Storm: The results of the **polygraph** test were inconclusive. But Steve had an alibi.

Barnes: I was home until about 5:30 then I stopped at Nimey's gas station; got gas. Went to Riverside Bowling Alley the whole night.

Lewandrowski: My family owned it so I was bartending.

Storm: Ed Lewandrowski.

Lewandrowski: So he would always come in after his job. He was a construction worker. We'd all meet down there. That was the gathering spot.

McNamara: He told them that, yes, he had been in the area; he did not see Kimberly. He had stopped and got five dollars worth of gas and then drove to the bowling alley.

Storm: Current Oneida County District Attorney Scott McNamara.

McNamara: They went, they interviewed the gas station attendant, who was a young kid, who told the police that, yes, he knew Steve, he remembered pumping the five dollars worth of gas, and that Steve drove to the bowling alley. And everything seems to be good at that point for Steve, I would say.

Storm: But in 1985, murders were fairly uncommon in Oneida County, especially in the idyllic town of Marcy.

McNamara: This is a horrific crime. It's one of those crimes that it gets the whole community upset, scared. You're talking about a 16-year-old that's basically snatched off the road, raped, sodomized, and murdered. It's every parent's worst nightmare.

Storm: Attorney Edward Kaminski.

Kaminski: At the time, this was big news. It was headlines in the newspaper every single day. Every single day it was in the paper. Everybody was clamoring for a result. We want to find the killer.

McNamara: As the investigation continued, there was a Utica police officer—off-duty Utica police officer—who came forward and said that he was on Mohawk Street the night that this happened, and he remembered seeing something that he thought was suspicious. He told them that he drove by, he saw a male that would match the description of Steve, and that he was next to a pickup truck. He, interestingly enough, was shown a photographic array and did not pick Steve out at the initial stage.

Storm: Nonetheless, investigators continued to focus on Steve.

Barnes: And they used to follow me around, made my life miserable, talked to a few of my friends, hassled my ex-girlfriend.

Bouchard: They constantly watched him. They used to watch my house, sit on top of the hill. They used to follow him down to his girlfriend's, call his girlfriend's parents, and tell them, "Your daughter's going to be the next one they find in a field dead," and just constantly harassed us, making our life miserable, especially Steve's.

McNamara: They also did, interestingly, there was a truck lineup, but Steven's truck was the only one that looked like Steven's truck, and that was kind of an interesting thing.

Kaminski: And the officer said, "Yup. That's the red pickup truck I saw." Judge Buckley was the presiding judge in the matter. Now he's in the Appellate Division in New York City. And I showed him a cartoon of a man, a rabbit, and a

rock, with a victim pointing and saying, “That’s the man, your honor.” Because that’s what it was.

McNamara: Now the investigation continues for, I think like three years. Ultimately, that police officer now picks out **Steve Barnes** out of a photo array. What changed in those three years, or what took place when he was being shown that photo array, all of that surrounding stuff, I have no idea. I don’t know what all of a sudden made him able to pick him out when he couldn’t pick him out initially.

Barnes: They arrested me on March 25, 1988. They come knocking at my front door, and the officer said, “You remember us?” And I said, “Yeah, how could I forget you?” And they said, “a few people come forward, and they pointed the finger at you, and you’re under arrest.”

Bouchard: On March 25, 1988, I walked in the door, and my younger son Shawn was sitting there, and he said to me, “Mom, they came and picked up Steve.” And I go, “Who came and picked him up?” I’m thinking one of his friends, you know? He said, “They came and arrested him for Kimberly Simon’s murder.”

Barnes: I was in shock. I was yelling at the officers, screaming. I was with my brother and my girlfriend at the time. They were all freaking out.

Bouchard: I didn’t want to live. I was devastated. I was in shock. I couldn’t believe it. My God, how could they do this, you know? I was stunned. Absolutely stunned.

Barnes: I’m in the cop car and I go, “I can’t even believe this is even happening.”

Bouchard: That was the beginning of our 24-year nightmare.

WUTR reporter David Fine: The first witness of the day was Oneida County Sheriff’s Department Lieutenant Charles Shidereck...

Bouchard: They had Steve out on bail for a year—14 months, actually—they arrested him in March and it didn’t go to trial until May of ’89.

Storm: The case was prosecuted by Oneida County Assistant District Attorney William Kernan, who has since passed away. Steve’s mother Sylvia had replaced Edward Kaminski with a more experienced lawyer.

Bouchard: We hired the best attorney we could in Salvador Capecelatro.

Storm: Capecelatro is also now deceased.

Bouchard: He said, "We will represent your son. He hasn't done anything." So we were very confident.

Duffy-Foster: At the time my first impression was of his mother.

Storm: Lori Duffy-Foster covered the trial for the Syracuse Post-Standard.

Duffy-Foster: I guess I would describe her as if she was a rock. She was very emotionally in charge of herself, or trying to be. I was very skeptical. And I couldn't form an impression from that. I decided then that either she knew he was guilty, but he was her son and she needed to stay strong for him and she loved him, or she knew he was innocent and she knew she had to keep herself together.

Storm: Steve's family and friends were confident of his innocence.

Pawloski: He could never have done something like that. Never.

Storm: Steve's sister, Lisa Pawloski.

Pawloski: He was not good at lying. You can tell when he does. He can't look somebody in the eye. Nope.

Storm: Ed Lewandrowski.

Lewandrowski: It was ridiculous, you know, because I saw him that evening. I saw him supposedly right after the crime was committed, according to their timeline. And to tell me that somebody I've known since first grade just went out and brutally raped, and killed, and then come and meet me and, "Hey, what's up," and talk about our day like any other day is just ridiculous. I'm getting goose bumps thinking about it, going back in time like that. But he was right there at Riverside Lanes. "What's up, Steve?" "Nothing." I knew he didn't do it. I knew he didn't do it from day one.

Storm: The timeline was key. Kim Simon left her house at around 6 pm and began walking down Mohawk Street. Steve said he wasn't on Mohawk Street at all that day, but that left his house between 5:30 and 6, stopped for gas, and drove to the bowling alley on Route 49. During the initial investigation, a gas station employee corroborated Steve's story. But on the stand, he suddenly remembered things differently.

McNamara: The gas station attendant changed his story.

Storm: Current Oneida County District Attorney Scott McNamara.

McNamara: And said that Steven did not drive to the bowling alley, that he in fact turned down Mohawk Street right after Kimberly walked down the street.

Barnes: I thought people were my friends; they made stuff up. The cops kind of strong-arm them: "Say this." He was a young kid, 16, 17.

McNamara: And ultimately I think that was a very, very harmful thing to Steve, because if that kid had continued to say, "Hey listen, I saw **Steve Barnes** and he drove to the bowling alley..." Steven Barnes's alibi was at the bowling alley. Everybody in the bowling alley said Steven Barnes was in the bowling alley.

Duffy-Foster: If those testimonies of his alibi were correct...

Storm: Former Syracuse post Standard reporter Lori Duffy-Foster.

Duffy-Foster: Then he would have had to kill Kimberly Simon and get back to Riverside Lanes in about ten minutes. It was just unbelievable.

Storm: Other witnesses gave conflicting testimony. Some said they saw Kim on Mohawk Street, and even said that they saw her talking to Steve in his truck. Others said they saw Kim and a man in a truck, but that it wasn't Steve and it wasn't Steve's truck.

Bouchard: We were very confident. I mean everyday, we'd come down the elevator and our defense attorney used to say, "Nobody hurt us today." Even the prosecution witnesses really were helping Steve. They'd say, "That wasn't his truck, and this wasn't when I seen him, and this wasn't the time and all."

Storm: Then there was the testimony of off-duty Utica police officer Philip Arcuri.

Fine: Officer Arcuri testified that as he drove down Mohawk Street, he saw a maroon pick up truck parked by the side of the road facing south.

Arcuri: The left front wheel... it was illegal, to my opinion.

Kernan: Illegal?

Arcuri: It was like a bald front tire.

McNamara: The part that I found somewhat hard to believe afterwards as you look at it was, he said that for, like, two minutes he had an opportunity to look at Steve, recognize a lot of stuff about Steve's truck, including that it had a bald front tire. Since that time, we actually went and drove that road. And giving him the benefit of all doubts, it probably was a six to ten second encounter to notice all these things.

Fine: Arcuri said he saw a young man walking near the truck, a man he identified as the defendant.

Storm: In 1985, Arcuri had not been able to pick Steve out of a lineup.

Barnes: Three-and-a-half years later, he's picking me out, and my truck. He said his memory was better after three-and-a-half years.

Duffy-Foster: He couldn't see a thing see a thing without his glasses, and he claims to see Steven Barnes while he's going 25 miles-an-hour past the pickup truck and he doesn't know the guy. There was just... there's no way.

Fine: For the third day, testimony centered around lab results.

Storm: The prosecution claimed to have scientific evidence that would prove Kim Simon was in Steve's truck. For example, investigators had found in the vehicle two hairs that were similar to Kim's hair.

Fine: The first witness of the day was Anthony Orłowski, a senior lab technician with the New York State Crime Lab in Albany. Capecelatro asked Orłowski to read a section of a report prepared by another lab analyst who had examined samples taken from Steven Barnes' pick up truck.

Orłowski: Nothing was discovered which would show an association between the vehicle and the deceased.

Capecelatro: Go ahead.

Orłowski: Because control hair was not submitted from the owner of the vehicle, no comparison of hair was conducted.

Capecelatro: Thank you.

McNamara: That hair means nothing to me. It was consistent with Kimberly's hair. Well, so was Steve's sister's hair.

Storm: The police had also found a denim imprint on the side of Steve's truck.

McNamara: That imprint apparently matched, or was very similar, to the jeans that Kimberly was wearing. They put a lot of weight into that. I don't today, because how many jeans are out there that could match that?

Storm: There had also been mud on Steve's truck, which the prosecution claimed was consistent with soil samples taken from the spot where Kim's body was found.

Barnes: They went and took the dirt like two-and-a-half years later from the crime scene.

Storm: A couple of other pieces of forensic evidence seemed to contradict the prosecution's arguments. First, tire track impressions taken from scene did not match the tires on Steve's truck. And second, experts testified that semen found on Kim's underwear could not be conclusively matched with Steve's blood type. But the prosecution did have one more piece of seemingly incriminating evidence.

Barnes: I had a jailhouse informant when I was in the county. He said I told him I did this, and I never spoke to the guy. But he got a time cut.

Kernan: A question was asked Mr. Barnes about a girl and Mr. Barnes says: "Who do you mean, the girl I killed? I mean the one I'm accused of killing?" Freudian slip?

Barnes: I didn't even know who he was. But he said I spoke to him.

Duffy-Foster: The evidence was just, it was almost comical.

Storm: Former Syracuse Post-Standard reporter Lori Duffy-Foster.

Duffy-Foster: If there hadn't been lives involved here, life and death, it would have been comical.

Capecelatro: Is this the type of evidence you would want your husband, your brother, your son convicted on?

Pawloski: They had no evidence on him.

Storm: Steve's sister, Lisa Pawloski.

Pawloski: There was nothing, and I knew he didn't do it, never in a million years.

Duffy-Foster: Even the prosecutor himself admitted that it was all circumstantial evidence. The scientific evidence was unreliable.

Kernan: In the beginning I said that this case was built around circumstantial evidence.

Pawloski: I just thought this was going to be a formality. Okay, we're going to go through all this, and it was very difficult to sit there and listen to them give all this testimony.

Kernan: Each piece of this circumstantial evidence is a piece of that puzzle that we're going to put together.

Duffy-Foster: I'm not entirely convinced that the prosecutor was certain of his case. On the closing day, when the jury went into deliberations, he had said that

he was hopeful the jury would put the pieces together and find him guilty. And then he said, and this is how I quoted him in the story, "If Barnes is innocent, then we're back to square one." He didn't say, "If Barnes is found innocent then a murderer runs free," or anything like that. He said, "Then we're back to square one." And it just seemed to me that William Kernan was wavering, that he was convincing himself as well as the jury.

Fine: It was set to be a long, tense day. The parents of the victim held hands. The mother of the man accused of killing her carried rosary beads.

Pawloski: Of course I was there on the day that the jury went out deliberating. And the next day when the verdict came back, I was there.

Storm: Steve's friend Ed Lewandrowski.

Lewandrowski: I didn't go that day. I couldn't. I couldn't.

Barnes: I said "ah, they can't convict me of this," you know? On June 2nd they did.

Fine: The jury came in. The clerk asked what their verdict was on the first count, one of rape.

Jury foreperson: Guilty.

Pawloski: I thought for sure it was going to be not guilty. And when they said "guilty," I was in a state of shock.

Fine: One by one the jury foreman read the verdicts: guilty of rape, sodomy, and murder. The Barnes family reacted with anger and grief.

Pawloski: And I immediately started crying, and I looked at my brother, and...

Fine: The defendant at first looked ahead at the desk in front of him, then dropped his head.

Barnes: I melted right there. There's a famous picture of me with my head down. I just started crying and I just went into, like, shock. I was like, "'I can't even believe this is happening to me," you know?

Lewandrowski: I threw up. I got physically sick. I couldn't believe it. They had no evidence. I just didn't understand what they convicted him on.

Duffy-Foster: I was shocked. I was very much shocked, as was I think much of the courtroom. I remember he cried, but I remember his mother did not. I mean

you could look at her and see she was on the verge. You could see it was a huge battle for her.

Bouchard: When they announced the verdict, I could not believe it. I just couldn't believe it.

Duffy-Foster: But it was almost like she said to herself, "I can't afford to break down. I need to just accept this and move on to the next step." Publicly she was just a rock.

Bouchard: I never took a drop of food, or water, or anything for seven days. I didn't even want to live. I thought, "This can't be happening."

Pawloski: The only thing I can think of is that they believed the testimony of what I believe to be the lies of the Utica cop. They believed him. Cops aren't supposed to lie.

Kaminsky: I know the trial strategy of the defense lawyer was that the prosecution had to prove their case. They had to prove that Steve was guilty. And Steve did not prove that he was not guilty. One of the things is that Steve didn't take the stand.

Duffy-Foster: I think a big part of it though, for the jury, was the fact that Steven Barnes did not testify. That never looks good to a jury. So if they were unsure one way or the other that might have thrown them in the direction of guilty.

Pawloski: This was a Friday afternoon. They had been deliberating Thursday, and then all day Friday.

Duffy-Foster: And if you look at how long the jury deliberated, they deliberated ten hours one day and six hours the next. So they clearly were torn as well. If they were certain of his guilt they would have come back a lot faster than that. Personally I don't know how the jury could have even deliberated that long.

Pawloski: In my opinion they didn't want to be sequestered for the weekend. They wanted to go home to their families.

Storm: On August 31<sup>st</sup>, 1989, Steve was given the maximum sentences allowable for the crimes: eight-and-one-third to 25 years for the rape and sodomy charges, and twenty-five years to life on each of three counts of murder.

Barnes: I'm innocent of all charges. I didn't commit these charges.

Storm: Salvador Capecelatro.

Capecelatro: I meant what I said. I have an undying belief that my client is innocent.

McNamara: Unfortunately for Steve, today he would have never gotten convicted, because the DNA isn't his DNA, and we would have known that, and it would have never been tried.

Barnes: You never told anybody in prison, "good morning." It's never a good morning in there. It's just the way it is.

Barnes: I was in Wendy, out near Buffalo. Greenhaven, down near the city, that's in Poughkeepsie. I was in Eastern. Southport, out near Elmira. I was in Auburn for a little bit. Passed through Sing Sing. That's about it.

Storm: **Steve Barnes** is a tall, brawny man with light brown hair. He's quick to smile, with an easy-going manner, and a perpetual glint in his blueish-grey eyes. Steve looks much younger than a man in his mid-forties, despite the hardships he's endured.

Barnes: I just seen guys get stabbed all the time. I seen guys get hot oil thrown on them, their skin melted off. I've seen guys get burned up in their cell. I was in a mess hall, there was a riot; they dropped tear gas.

Lewandrowski: It's a maximum security prison, so there's some scary people in there.

Storm: Steve's friend, Ed Lewandrowski.

Lewandrowski: It's a scary place. And it made me feel awful that he had to spend day after day, week after week, year after year in a place like that for a crime he didn't commit. You know it was just awful, scary.

Barnes: I had to stab somebody. I got stabbed. It's part of the lifestyle you're forced to live. You gotta fight for yourself; stand up for yourself. People respect you. It's just all gang stuff, so you gotta endure a lot of violence through the years, you know?

Lewandrowski: He expressed to me one time that, you know, he was going to be going out in the yard, and he may not be coming back, something bad was going to happen.

Barnes: Violence, in prison there's something always happening every minute. You walk out into the yard, there's eight, nine-hundred guys, and they're all in their little cliques and gangs, and something's always popping off, you know? It's just that type of place.

Lewandrowski: And it's being naïve, and being a person on the outside, you can't imagine what's going to happen. You see things on TV; there's prison riots and so forth, but to actually be involved in one, I couldn't. I have no idea what that would be like.

Barnes: The strong survive and the weak don't make it, you know? You just gotta be tough, strong-minded, and have a strong heart.

Pawloski: He was reserved, especially in the very beginning. He was very, very scared, I mean, as well as we were.

Storm: Steve's sister, Lisa Pawloski.

Pawloski: He was only, what 22 or 23, however old he was, and here he was in a maximum security prison with murderers and rapists, and really some scary, scary people.

Barnes: You always had to have your guard up. Never trust nobody. You don't have any friends in prison, you got associates. As you get time in, guys see how you carry yourself and you earn respect through the years.

Pawloski: Twenty long years. Without fail, we were there, through snowstorms, through no matter what kind of weather there was. We went and visited after I had my kids. I'd pack up the bottles, and the diapers, and the baby food, an extra change of clothes, and carted the kids out there to see him.

Bouchard: We had to go visit and make sure we kept his spirits up.

Storm: Steve's mom Sylvia visited him, without fail, every weekend, for twenty years.

Bouchard: I used to talk to him about anything and everything in town, you know? Who got married, whose grandmother died, who had a baby.

Lewandrowski: And he's in his jump suit, and you try to talk about what's going on or what he's interested in.

Bouchard: You know, whatever we could talk about just to keep his spirits up, you know? His visits were very important.

Pawloski: You knew you didn't belong there; you knew your brother didn't belong there, you did what you had to do, but when you left and you hear those prison doors clanging behind you, and knowing that your brother is still in there...

Bouchard: On the way down I used to want to vomit, thinking my son was in a place like that. And on the way home, I used to want to die because he couldn't come home with me. Every single trip.

Barnes: You gotta have some rec in there. You just gotta stay busy. I used to always lift a lot of weights; I was a powerlifter. I was really big and strong. I held the record in a few jails, there, for lifting the most weight. I did a lot of reading. I read a lot of law books, I always fought for my case, studied on DNA, wrote letters to everybody, trying to get my case opened. That's when I got involved with the Innocence Project.

Bouchard: In 1993—I have the original letter—August 1993, I was watching the Phil Donahue show, and he had on Barry Scheck with about five guys that he'd gotten out with this new thing called DNA. Well, DNA to me was three letters in the alphabet. I'd never heard of it. So I listened very intently.

Philo: The best way to explain DNA is that it is your genetic fingerprint.

Storm: Ray Philo is the former chief of police in New Hartford, New York, and is currently a professor of criminal justice at Utica College.

Philo: And without getting incredibly scientific about DNA, it is unique to you. Therefore, if we can analyze DNA evidence that is left behind, which now we can, it can go back to one particular person.

Storm: DNA can also exclude particular people. That is, it can prove that they weren't involved in a crime.

Morales: We do post conviction DNA work. We represent people who are claiming innocence who have been convicted of crimes where there is DNA evidence that could prove their innocence and get them out of jail.

Storm: Alba Morales is an attorney who works for the Innocence Project, an organization founded by Barry Scheck and Peter Neufeld. Steve's mom Sylvia decided to enlist the Innocence Project's help.

Bouchard: I knew they were from Cardoza Law School in New York City. So I called information—it was in the days before computers and everything—I got the address and I wrote directly to them. I still have the letter, August 1993. They sent a letter back, and they said to send the transcripts and they'd be willing to take a look at Steve's case. Steve was case number 0018. So it was relatively new. They were very small. They worked out of the college. And the students more or less did the work. And in them days it wasn't pro bono. You had to pay for your own laboratory work and all that. They weren't high rollers.

Storm: The Innocence Project agreed to take Steve's case. But DNA testing was not as advanced then as it is today, and as Oneida County District Attorney Scott McNamara points out, DNA technology was fairly new at the time of the crime.

McNamara: Nobody in '85 knew that you're supposed to do what we do today when you collect it and store it.

Barnes: When they collected the evidence back in the '80s, they put some solution on the slides; it broke down a lot of the DNA. It came back inconclusive.

Bouchard: That was a really tough day when I had to go and tell Steve that. Because we really thought he was coming home that summer. That was back in 1995.

Storm: Christine Doyle, the student who had worked on Steve's case on behalf of the Innocence Project, graduated law school and moved on to a job with Amnesty International. But she was so convinced of Steve's innocence that she agreed to continue working for his release.

Bouchard: And then in the early 2000s, we hired a private investigator, and he tracked down some of the witnesses, who admitted that they had lied, got statements and all that. And then Steve called me one day from prison, and he said, "My letter to Chris was returned." And I said, "What do you mean returned?" "It came back. She doesn't live there anymore." And I thought, "Oh my god. I just sent her 23,000 dollars." Now we're just about out of money. I'd spent 25,000 dollars on the trial, back in them days.

Storm: Sylvia turned to the Innocence Project for help tracking down Christine.

Bouchard: They got an investigator, and two weeks later they called me back, and they told me she was in a horrific automobile accident and she was in a coma in an institution, where she remains today.

Storm: Christine had all of Steve's records.

Bouchard: Now we have nothing. Every time we thought there was a light at the end of the tunnel, it was another freight train coming.

Morales: And then years later, Steve's brother Shawn came to this Innocence Network conference and basically, you know, just pigeonholed Peter Newfeld, who then sent him over to Huy Dao who's the head of our intake department, and he just plead his case.

Storm: Alba Morales was new to the Innocence Project.

Morales: Steve's was actually one of the first cases that I picked up, you know, when I came on board. I remember Steve's case being presented at one of the first intake meetings, and we all agreed that it met the mandate and that it was a case that we really should have taken.

Bouchard: I got a call from Maddy deLone, who is the executive director of the Innocence Project—she's right under Barry Scheck and Peter Neufeld—saying they were going to reopen Steven's case. And I said, "Thank you, God."

Morales: I remember reading the transcript and sort of, you know, talking to my paralegal and saying, "I think we're missing a portion...I think there's something..." It was just unbelievable to me that this man was convicted based on the evidence presented. And I kept thinking, "There must be something. There must be some huge gap in my understanding of what the testimony was or what the evidence was." And was pretty horrified to find out that there wasn't a gap. That really, you know, the evidence that was presented against him was all they had. And that they were able to get a conviction out of that I thought was pretty spectacularly shocking.

Storm: Oneida County District Attorney Scott McNamara quickly agreed to release evidence from the case for another round of DNA testing, which began in June of 2008.

Bouchard: And they told me it was going to be three to six months. It may be up to a year because the evidence was now 24 years old. And don't forget, it could come back inconclusive again, because the evidence was, you know, older.

Storm: According to Alba Morales, Steve didn't seem to be getting his hopes up.

Morales: I think I was mostly struck at how quiet and calm he seemed.

Storm: She remembers their first meeting in prison.

Morales: He felt like somebody who was maybe he just afraid, because he'd been through it before, you know, where he'd gotten the testing and you think here's your Golden Ticket, the key to your... the prison door and it didn't work out for him that time. So I almost wonder if he maybe was holding back a little bit, because he didn't want to get ahead of himself having been down that road before.

Storm: Steve certainly wasn't alone. Many other inmates had been down that road before, too. Larry Golden was president of the Oneida County Bar Association when he first began researching the Innocence Project.

Golden: Being a lawyer, although I'm not involved in criminal practice, I've always been concerned about wrongful convictions, but didn't know how much

this organization had done in that regard. And I decided that it would be a worthwhile venture for the Bar Association to engage in some programs that would promote public awareness about the very things that I as an attorney was finding out just by going to their website.

Storm: In November 2008, Golden organized a five-day program called “The Art of Innocence,” which was held at Munson Williams Proctor Arts Institute in Utica.

Alan Newton at *The Art of Innocence*, November 5, 2008.

Storm: The program featured panel discussions with exonerees, a live performance of the off-Broadway play *The Exonerated*, and screenings of the documentary film *After Innocence*.

Golden: But a real highlight was that Sylvia Bouchard attended. And during the question and answer period, would get up and make a statement that she was the mother of Steven Barnes, and she wanted them all to know and understand what it was like to be the mother of someone who was wrongfully convicted. She never celebrated holidays or birthdays. Time, in many respects, had stood still. She would end each of her little statements by saying, “It’s my hope and my prayer that this Christmas, Steven will be home to celebrate Christmas with me.”

Morales: I knew that his family was absolutely desperate to have him home by the holidays, and I wasn’t at all sure that that was going to happen. So when it did happen, that was really wonderful.

Bouchard: It was the Friday before Thanksgiving. I came home and my husband said, “You have to call the Innocence Project. They just called.”

Pawloski: It was my daughter’s tenth birthday. It was November 21<sup>st</sup>, 2008.

Bouchard: So I called and his lawyer was on another line. And they said, “Can she call you back in half-an-hour?” And I said, “Well, I’m going to give you my daughter’s number because I promised my granddaughter I’d be there when she got off the bus with her presents.”

Pawloski: My brother’s lawyer from the Innocence Project called my house looking for my mom. And that was kind of unusual; she didn’t do that. And I said, “No she’s not here yet. She’s probably at home. You can reach her up there.”

Bouchard: So we go down to my daughter’s house, and my daughter meets me on the front porch. She goes, “Mom, you’ve got to call the Innocence Project, they’ve called here again. So I go, “Wow.”

Pawloski: We kind of figured something was up because she had tried so hard. So my mom called back down to New York and got a hold of the lawyer.

Bouchard: And she said, “Oh,” she said, “Are you gearing up for Thanksgiving?” And I said, “Not really, because we always held out hope that Steve would be home.” And she said a sentence I’ll never forget as long as I live: “Set another place at the table. Your son’s coming home on Tuesday.”

Pawloski: And at that point she was screaming, and yelling, and crying, and “He’s coming home! He’s coming home!”

Bouchard: She’s like, “Who’s coming home? She got so upset. I said, “Your brother’s coming home on Tuesday. He’s getting released.”

Storm: And just then, Steve called.

Bouchard: And my daughter accepted the charges. She said, “Mom’s got to talk to you.” I couldn’t wait another sentence. I just said to him, “Steve, you’re coming home.” And he just started crying, and he hollered out to everybody, “Guys, I’m going home!” And you hear the guards cheering, and the inmates are banging on the bars. This went on for quite a few minutes. And he couldn’t talk, and I couldn’t talk.

Storm: The next day, Sylvia went for her weekly visit just like always.

Bouchard: So of course the guards all knew the testing was going on. They were very supportive of Steve. They loved him down there. He was one of the best inmates they had.

Morales: He just seemed very well liked.

Storm: Alba Morales, Steve’s Innocence Project attorney.

Morales: As much as it sounds strange to say it, I almost want to say respected. But it seemed like the people there genuinely liked him.

Bouchard: And when I walked in and they processed me, I said, “This is the last time you’ll have to process me.” And they went, “Is he coming home?” And I go, “Yeah.” And they all came running over, and congratulating us. And then Steve walked in the visiting room and we just collapsed in each other’s arms, and we just sighed. And I’ll never forget the guard in the visiting room, said, “I’m going to do something I’ve never done in my life, in all my years as a corrections officer. I’m going to shake an inmate’s hand.” He said, “You told me years ago you were innocent. I believed you then.” And he said, “Now everybody knows.” Tuesday he came home.

Lewandrowski: I got a phone call early one morning from Shawn Barnes, his brother, saying that he was going to be released. And I had a recurring dream that I got a call from... but it was from his mother, you know, my dream. And I was just like, "Shaun, I've had this dream so many times, that he was going to be released. Is this not..." He goes, "It's true." And then to see him walk through the door, and have the shackles taken off him. It was just incredible. It was like Christmas.

Pawloski: I can remember that morning, driving there. I was driving myself there. And I'm driving, and I'm thinking to myself, "How many other people in this world right now are driving to the release of their brother that's been incarcerated for 20 years for a crime he didn't commit?" And I was thinking to myself, "Nobody, I'm the only one that this is happening to today," but still was afraid that something was going to happen at the last minute, and they're going to change their mind, and it really wasn't going to happen.

Bouchard: They still had to bring Steven all chained up just like an animal, even though they all knew he was already innocent. And Scott McNamara was there, and he read the results of the DNA, and excluded him, and he asked that the verdict be vacated. And Judge Dwyer says, "I'm vacating the sentence, and you're free to go."

Golden: To me the most vivid moment was when Steven was brought into the courtroom, he had handcuffs and shackles on, and a female deputy sheriff was told to remove his handcuffs. And she removed them, and I heard the chains drop to the ground.

Pawloski: That was probably one of the most dramatic moments of my life. You could hear a pin drop, and then you heard those shackles drop to the ground.

Golden: And the noise kind of echoed, at least in mind, through the whole courtroom. And people I've talked to said, to them, that was one of the most incredible sounds they'd ever heard.

Bouchard: And it was like a truck was lifted off my back. Even the cameramen were crying. You couldn't help it. You just couldn't watch it without being emotionally involved, even if you didn't know him.

Golden: You could just look around the room and see tears in people's eyes, and smiles as broad as you could ever hope to see. It was just an incredible atmosphere.

WKTV Reporter Jolene Ferris: No plate glass today as he hugged his mom, step-dad, and siblings for the first time in nearly twenty years.

Barnes: I'm overwhelmed, you know? It's the happiest day of my life. I waited for this for twenty years.

Ferris: Twenty years that saw sweeping changes in a world that stayed exactly the same in Barnes' prison cell.

Barnes: I don't know what the internet is; I don't know what a cell phone is.

Barry Scheck: What about a Blackberry?

Barnes: I was in shock the first few days. I lived in the town of Marcy my whole life, and I couldn't believe all the different places were gone, and new houses, apartments. All the cars had changed.

Storm: Ed Lewandrowski recalls Steve's fascination with new technology that we take for granted.

Lewandrowski: "GPS? What's that?" He was loving that. "So you just plug in the address?" I go, "Yeah it'll talk to you. It tells you where to go." He's like, "Come on." I'm like, "Yeah."

Barnes: I remember when I first went in to a restaurant, and went to the sink, and put your hands under the faucet, and the water comes on, automatic. They didn't have that years ago.

Storm: That first trip to a restaurant came on the day of Steve's release.

Bouchard: It's a tradition of the Innocence Project. They take you out for your first meal.

Storm: Larry Golden was at that dinner.

Golden: I looked over, and Steven was looking at his food, but also holding a fork in one hand, and a knife in the other hand, and looking kind of back and forth at these two utensils. And someone said, "Is something wrong?" And he said...

Bouchard: "Man, real silverware. I haven't used silverware in 20 years."

Golden: And it just really drove home the meaning of what he had lost in those 20 years.

Barnes: Small things to other people would be big things to me. When I first came home, my mom lives up in Marcy, I took a walk.

Bouchard: He said, "You know what it was to go for a walk and I could go as far as I wanted? No guards were watching me, and there was no fence." I go, "You know, Steve, I never thought about that."

WKTV Reporter Nichole Estaphan: Just shy of two months since Steven Barnes' murder conviction was vacated, today, he's exonerated on all charges.

Storm: It was January 9, 2009.

McNamara, from WKTV News Report: Our system, which I still believe is the best in the world, failed Mr. Barnes. And for that, I'm sorry.

Storm: Though Oneida County District Attorney Scott McNamara was not involved in Steve's prosecution, he offered him an apology, and Steve reflected on things that might have been.

Barnes: I missed out on a career, a family.

Morales: When they get out, you don't know. Is this going to be somebody who lands on his feet? Is this going to be somebody who's going to have a rough transition back?

Storm: Alba Morales, Steve's Innocence Project Attorney.

Morales: You know, it's so sudden. It's not like he's paroled and he goes through this whole process. It's, you know, he's in; he's out.

Barnes: I had to start over when I came home. I didn't have a license. So the first few months I was home, I had to rebuild all my identification, copies of my Social Security card. Because I always tell everybody, "the world moved on, but Steve Barnes didn't." So when I got out, I was like a 16-year-old kid again. I had to, you know, I had to rebuild my life.

Bogart: When Steve first started to work with us...

Storm: Steve got a job with Youth Build, a program of Oneida County Workforce Development. Sarah Bogart is his boss.

Bogart: Honestly I felt awful for Steve. You just have to feel bad for someone that's been in jail for twenty years for absolutely no reason.

Storm: Steve mentors at risk youth, and teaches them the trade he practiced before he went to prison.

Barnes: This is Johnson Park.

Storm: Today, Steve and his kids are rehabbing a building in one of Utica's more impoverished neighborhoods.

Barnes: The kids are learning how to do tile, staining, moulding. We did painting. We actually did some demolition; we tore up the old flooring, old carpet downstairs.

Bogart: Steve's doing great. He does construction with the kids, and really he loves it, he does a great job, and they love having him there.

Barnes: Some of them are on probation, most of them don't have G.E.D.s, single family homes. Four or five girls in the program, they're single moms.

Bogart: Some of them have a lot of different issues in their own lives, so to see someone who has been through all of that and is still so positive, it's really... he's just a great role model for them.

Barnes: I sat them all down, I told them my story, what happened to me and they were like, "wow," you know? So they kind of, I don't know, they kind of bond with me. We're on the same page, them kids. You know?

Bogart: And I think some of them, it has really shown them: "If I take this route, I can avoid all that so easily."

Barnes: Most of them get their G.E.D., they learn construction. Other ones go on to college. I feel like I helped them out and I feel good about it, you know?

Lewandrowski: Oh, he's done excellent.

Storm: Ed Lewandrowski.

Lewandrowski: It's great to have him back in the area. I think he's definitely one of the positive individuals of the Mohawk Valley that can take something so tragic that happened to him and want to make a difference, you know?

Bogart: It's got to be hard to talk about it, but in way, it has to be good for him.

Barnes: I'll be probably mentally scarred forever. It's not like it was a couple years. I almost spent as much time on the street as I did in prison. It'll always be in there, in my mind. I'll never forget it. I'll always talk about it, try to change laws. It's like therapy for me, I guess, to talk about it.

Morales: We have a lot of exonerees who are very active. They write op-eds, they go on speaking tours.

Barnes: I went to Congress and spoke about my case. I went to Albany, at the capitol.

Storm: Attorney Alba Morales says that exonerees like Steve are the most powerful advocates the Innocence Project has.

Morales: And I think that we're, as an institution, very grateful when people like Steve come out and decide that this is something that they want to devote their time to.

Golden from Sadaquada program, June 10, 2010: And so with that, I'd like to introduce Steven Barnes.

Golden: He's done a number of programs that he and I have collaborated on.

Storm: Attorney Larry Golden.

Golden: And the more interested I became in his experience and the Innocence Project, the more involved I've become in the issues of wrongful conviction to the point where last year I was appointed to the New York State Bar Association's special task force on wrongful convictions.

Storm: The task force has proposed several pieces of legislation aimed at reducing the number of wrongful convictions. Understanding the causes is an important first step toward reform.

Golden: Probably the primary cause is eyewitness misidentification.

Philo: We as, not only as practitioners of law enforcement, but in criminal justice academics, are beginning to learn that humans, we are fallible, we make mistakes.

Storm: Ray Philo worked in law enforcement for thirty years and teaches criminal justice courses at Utica College.

Philo: False identifications are a big problem.

Morales: Over a third of exonerations had mistaken eyewitness identification as a factor.

Philo: So we need to institute some safeguards in those type of things.

Morales: There are a lot of reforms you can make to the process through which witnesses are asked to give identifications. Right now, a victim of a crime is asked to look at a lineup, and there's five or six people. And so they pick the person who most resembles the perpetrator. As opposed to sequential lineups, if you have a sequential array, where the witness doesn't know what the last photograph is,

and so they're going to look at each suspect on his or her own merits and determine, is this the person? Is this not the person? So identifications become a lot more reliable.

Storm: Steve's wrongful conviction involved incidents of misidentification, like the off-duty Utica police officer's testimony. Oneida County District Attorney Scott McNamara suggests another possible reform to the identification process.

McNamara: I think the photo array procedure should be videotaped so there's no doubt about what goes on inside of that room. I'm not saying that anybody did anything wrong, but we would know now that nobody did anything wrong.

Storm: Steve advocates for mandatory videotaping of all suspect interrogations.

Barnes: So if you ask for a phone call, or if you ask for this... these cops can't shut the door and verbally harass you and get crazy in there, so...

McNamara: Absolutely. I agree with that, and we do do that. That is my policy. We initially started doing c-level felonies and up, now we try to do all felonies.

Philo: Most of the police agencies in Oneida County have state-of-the-art video systems in their police departments, so the videoing of a suspect which would lead to a conviction is on tape for judges and juries to see from beginning to end. There's no interruption. You can't turn it off once the video starts running. Therefore, they can actually see that there was no steering, no intimidation, or no unlawful techniques were used that might result in coercion, thus getting a false confession.

Morales: It's very powerful evidence when somebody confesses. Because why would you confess to something you didn't do? We do know that innocent people do confess.

Golden: Ten of the 24 cases in New York State, the wrongful conviction resulted from false confessions.

Morales: It's not always the investigating detective beating a confession out of somebody. It's sometimes the person being worn down, the person being fed information. You look at some interrogations and everything that the suspect is saying is something that the detective has told him, whether consciously or not.

Storm: To expand on the idea of false confessions, there are also instances, like the jailhouse snitch in Steve's case, when someone else comes forward to claim that the suspect made a confession.

McNamara: Somebody who's incarcerated who's selling us their story for a favorable disposition. That has to be videotaped. I believe that's where we need to be, because those are the people that are most likely to exaggerate and lie.

Barnes: And you talk to him, to this day, and he's like "I never testified. I don't know nothing."

McNamara: Which then leads me to believe that that guy might not have been totally truthful, if he doesn't even remember testifying.

Storm: And sometimes witnesses lie for other reasons, like the gas station attendant in Steve's case.

Bouchard: Three days after the murder, he said Steve drove down toward the bowling alley. Then he changed his story and said he was going down toward Mohawk Street.

McNamara: And he admits that he lied. Unfortunately, we can't prosecute him because the perjury took place more than five years ago. The way I understood it, Steve had a girlfriend at that time, and this kid started to date her. And he felt that if Steve was in prison, I guess he didn't have to worry about it.

Golden: Another cause of wrongful convictions is faulty forensics—what we call junk science. This was an issue in Steve Barnes's case.

Storm: The jean imprint found on the side of Steve's truck.

Morales: Really? Fabric? Unless you're going to point me to a database of all the denim that's ever been produced in the world, and here's how often this particular occurs, that's not science. That's some guy looking at an imprint and saying, "Yeah, they look the same." So what?

Storm: The similar hairs, the similar soil samples.

Morales: He didn't say there was anything particularly distinctive about, you know, "There's two bushels of this dirt in the entire universe, and they're only found in this location." It just seemed so, on its face, absurd to me that somebody would compare dirt samples and just say "it matches."

Philo: With all the best intentions, sometimes law enforcement gets tunnel vision, and they tend to zero in on a particular person, and fail to look at the totality of the circumstances, and the potential for other people to be involved.

Kaminsky: It really was that the police, right or wrong, had their man. They didn't care if they had the right guy, as long as the case was solved. There was so much commotion to solve this murder. There really was.

McNamara: It's easy to go back and second guess what people did years later. And trust me, I realize that everyday I do my job that someday 20 years from now somebody will be second guessing what I did.

Morales: Even giving the benefit of the doubt to every single prosecution witness, I didn't see how that led to the conclusion that Steve did this. I was a trial attorney. You have faith in the jury system. It's what you sign on to do. And to see it fail that miserably is a little disheartening.

Golden: The reality is that even though you have all kinds of protections in the criminal procedural law, there has always been a kind of feeling on the part of too many jurors, that because he's being prosecuted and because he's there and they're putting in this evidence against him, he must be guilty, otherwise he wouldn't be there.

McNamara: In that time period, it was so much different than it is today. With all the CSI shows that are out there, it's just a different world, and the general juror has a different knowledge than they did back in '85.

Philo: The paradigms of investigations clearly have changed. Looking at how cases are done now, I believe that there could not be a conviction based on the evidence of those standards. Once again, the paradigms have changed, in those 20 years, considerably, mainly because of the advent of forensics and forensic evidence such as DNA.

McNamara: The problem is how do you give Steve back the 19 years of his life that he lost? That's the sad part.

Barnes: Like, everybody asks me: "you're gonna get money, you're gonna get this..." I always ask people, I say, "would you give up say five, ten years of your life for maybe five million dollars, would you take the money?"

Storm: New York is one of the states that provides compensation for victims of wrongful convictions.

Barnes: Whatever money they give me is not gonna replace the twenty years that I lost.

Storm: Attorney Larry Golden.

Golden: What a lot of people don't think about also is the fact that if a person is wrongfully convicted this impacts their entire family.

Bouchard: We were all incarcerated. I mean, when you have a loved one in, you don't enjoy anything. How can you enjoy holidays when one of your sons is sitting in a cell for something he didn't do, heartbroken? You know? But we got

through it as a family. We never quit trying, we never quit praying, and we never, ever gave up hope, ever. That was the key to it.

Storm: But wrongful convictions don't just have an impact on the individual and his or her family. There are also disturbing implications for society as a whole.

Golden: When you put the wrong person in prison, this means that the right person—the actual perpetrator of the crime—is still on the loose.

Pawloski: And who knows what else they could have done in that 20 years as well. Luckily there's still a task force working on it and they're trying to bring the killers to justice.

Storm: In March 2010, Kimberly Simon's murder was featured on *America's Most Wanted*. The program revealed that current investigators have identified persons of interest in the case. Oneida County District Attorney Scott McNamara says that these people were also suspects, if only briefly, in 1985. One of them was even involved in Steve's alleged jailhouse confession.

McNamara: Their names had come up back then. One of them was incarcerated with Steve, and happened to be at the same place when Steve supposedly made this statement, and was the ringleader, from the paperwork I've read, to get the other guy to say, "Yeah, yeah. That's what I heard. That's what I heard." That's disturbing.

Storm: Since the *America's Most Wanted* episode first aired, DNA analysis has helped McNamara and his team identify another person of interest who was not previously a suspect.

McNamara: This is actually the first time we've had a hit that makes somebody a viable target, and from other information in the case, we can put that person in and around that area that night, so we're not at a point where we're going to be able to arrest anybody, but I think we're definitely making some positive progress in this case.

Storm: But for now, what actually happened to Kim that night remains a mystery.

McNamara: We have always believed that there are people out there that do know what happened. And, you know, obviously we're once again pleading with those people to come forward and tell us what they know. It's time. I mean it's time to let Kimberly's family have their justice, and you know, really, Steve Barnes deserves some justice here someplace. It would be nice for him to at least know who did this I think, just so that he can move on with his life too.

Barnes: I tell people, "What happened to me and what happened to Kim Simon, two wrongs don't make a right." I feel bad for their family, what my family went

through. And I hope someday there's closure in this for the D.A.'s office, her family, me, so everybody can move on with their lives.

Pawloski: I think we're finally at the point, at least I am, I'm not sure if I speak for the rest of my family and for Steve, but I'm at the point where it doesn't even matter anymore. I've got my brother back.

Lewandrowski: Amazingly enough, you know, he still has a big heart. For him to come out and say, "I'm not even going to worry about it, and I'm moving forward," it's just a testament that this guy has it all together and has his heart in the right place.

Bouchard: Well, I'm incredibly proud of him. I think for what he's gone through, and to come out with the attitude he's had. When he came home, he said, "Mom, I left it all in that cell because they got 20 years of my life, and if I let that bitterness consume me, I'm not going to enjoy the rest of my life, and I'm going to enjoy it." And he's enjoying it, and I'm incredibly proud of him.

Pawloski: His motto is "every day is a holiday." He enjoys life to the fullest.

Barnes: People say, "You're always on the go." I say, "Yeah, 'cause just think of all the things you did the last twenty years. I didn't have that." I can make my own decisions. Prison, you're always told what to do, you know? Go lock in; go take a shower; ten minutes on the phone. It's nice to take a ride, or take a walk, and do what you want to do, you know?

Pawloski: I truly believe that in order to experience true happiness, you've got to experience some sadness in your life. And having experienced all the sadness that I have it makes even my life that much happier, because for 20 years I had pent up rage and sadness. And with every passing day a little bit more of the old me comes back, so it's good that not only my brother got his life back, but the rest of my family got our lives back, too.

Barnes: I always tell people you don't understand how much your freedom is until it's gone. Then when you get it back, you know, it's like, "I don't ever want to lose this again."

Bouchard: Steve and I are so close now. Very close. Closer, probably, than any mother and son could be, you know? We have a bond together, and we went through so much.

Storm: Sylvia's in a rehabilitation center recovering from a leg injury she received in a car accident.

Bouchard: It's just like the other night, Thursday night when we had the blizzard, and I texted him, and I said, "Steve don't come to visit tonight. I'm fine. I'm safe."

I want you safe. Stay home.” He walked in the door, and I said, “What are you doing here?” And you know what he said? “You came to see me whether there was a blizzard or not. You were always at the gate. And a blizzard’s not going to stop me. I’ve got a four-wheel-drive.” He goes, “Ma, there were so many times I thought: ‘She won’t get here. The weather’s terrible.’ And then they’d call my name for a visit.” So, that’s what family’s about. You’re there for each other.

Storm: *We Were All Incarcerated* was written, narrated and produced by Geoff Storm, with music composed and performed by Ryan Miller, and additional voice-overs by John Simmons. Special thanks to Steve Barnes, Sylvia Bouchard, Lisa Pawloski, Ed Lewandrowski, Scott McNamara, Larry Golden, Alba Morales and the Innocence Project, Lori Duffy-Foster, Ray Philo, Edward Kaminski, Sarah Bogart, Erin Covey, WUTR and WKTV television, and Town Square Media. Nationwide, the Innocence Project has secured 261 exonerations based on DNA evidence. Those exonerees spent a combined total of more than 3,000 years in prison.

Barnes: It can happen to anybody what happened to me.

<http://www.thenorthernlight.org/2011/11/01/falsely-imprisoned-for-twenty-years-steve-barnes-speaks-to-uaa-this-wednesday/>

## **Falsely imprisoned for twenty years, Steve Barnes speaks at UAA**

 November 1st, 2011  [Grace Hawkins](#)

Steve Barnes fell between the cracks of court room justice when he was tried and convicted for a crime he did not commit.

On Sept 18, 1985, Kimberly Simon was found dead on the left side of a dirt road in Utica, New York. Three days later, Barnes, then 19, was called in for interrogation.

After ten hours of cross examination, the investigating authorities subjected him to a polygraph test; later instructing Barnes to lie in order to test the machine, officers interpreted the tests and used the results against him in the original case.

The dirt on Barnes' mud flaps showed similarities to the same dirt at the crime scene. But when the original jury was presented with this evidence, the case was dismissed: everyone within the area had similar dirt under their tires as well and with an inconclusive polygraph test, Barnes was free to go. So it seemed.

Three and a half years went by between the investigation and the sentencing; three and a half years in which Barnes was followed. Friends were questioned. His girlfriend was interrogated. Six months in, he was asked for a blood sample in order to test some DNA. Two and a half more years went by. It was then, March of 1988, that Barnes was arrested for rape, sodomy and murder.

“When you're in trouble, you don't have any friends,” Barnes said.

Barnes was sentenced 25 years to life upon newly discovered DNA tests, which pointed the investigation back to Barnes. Upon the original investigation, he freely allowed officers to search his vehicle. Three and a half years later, tests showed that a single strand of hair was similar to that of the victim's and the unique stitching in her jeans matched a similar pattern in the vehicle. The state also introduced the testimony of a jailhouse informant, Robert Stolo, who said Barnes confessed to him while in jail awaiting trial more than two years after the crime.

Twenty long years went by of the same monotonous routine. By six am, prisoners had to be standing or sitting. This was followed by breakfast, which was followed by work. Barnes worked in maintenance, earning \$1.50 per day. Work was followed by an optional dinner. Then came rec time. Then lights out. Then the next day.

Finally, after two decades, witnesses came back confessing their testimonies were false. Evidence was re-examined and as a result to the appeal, Barnes was released. The district attorney, now a judge in upstate New York, could not look him in the eye as he offered a public apology.

Following in suit to the law passed by President Bush and Congress for wrongful incarceration and compensation, Barnes was remunerated for his “pain and suffering,” for a total of \$80,000 per year.

The Innocence Project, a national litigation organization who assisted Barnes in obtaining his well deserved freedom and compensation, took him out upon his release for a steak dinner with friends and family to celebrate.

Barnes missed a lot out of his prime years- he missed the birth of his nieces, holidays, severe changes in technology and the economy. Upon his release, Barnes did not even know what a Walmart was.

“Life goes on,” Barnes said quietly. “It’s in the past.”

It will have been three years to the day since Barnes’ release on Nov 25. Living the life of a free man, Barnes stated he now tries to “live each day like a holiday.”

*Alaska Innocence Project will be cosponsoring a lecture with Steve Barnes on Wednesday, Nov 2, 7:30 to 8:30 p.m. in Rasmuson Hall, Room 117*

Steven Barnes



<b>Incident Date:</b> 9/18/85	<b>Year of Conviction:</b> 1989
<b>Jurisdiction:</b> NY	<b>Exoneration Date:</b> 1/9/09
<b>Charge:</b> 1st Degree Rape, 1st Degree Sodomy, 2nd Degree Murder (4 counts)	<b>Sentence Served:</b> 19.5 Years
<b>Conviction:</b> 1st Degree Rape, 1st Degree Sodomy, 2nd Degree Murder (3 counts)	<b>Real perpetrator found?</b> Not Yet
<b>Sentence:</b> 25-Life	<b>Contributing Causes:</b> Eyewitness Misidentification, Informants, Unvalidated or Improper Forensic Science
	<b>Compensation?</b> Yes

In 1989, Steven Barnes was convicted in upstate New York of a murder he didn't commit based on questionable eyewitness identifications and three types of unvalidated forensic science. Nearly two decades later, DNA testing obtained by the Innocence Project proved his innocence and he walked out of the Utica courthouse a free man on November 25, 2008.

### The Crime

On the evening of Sept. 18, 1985, 16-year-old Kimberly Simon left her Marcy, New York, home walking to meet a high school friend. The next day, police officers found her body near the side of a dirt road. She had been raped and strangled to death.

### The Investigation

Several people in Utica told police that they had seen Simon walking along a busy street between 5:30 and 6 p.m. Others said they saw Steven Barnes' distinctive truck on that road around the same time. He became a suspect based on these vague statements from eyewitnesses.

One man, in police custody for an unrelated incident, testified that he was riding in a police vehicle when he saw the victim walking on the road and saw a truck similar to Barnes' truck nearby. A Utica police officer said he saw a young man matching Barnes' description parked alongside the street that night. Steven's brother-in-law testified that he saw a young woman getting into a truck along the road that was clearly not Barnes' truck. Others said they saw Barnes at a local bowling alley through the evening of the murder.

Barnes was questioned 12 straight hours on September 21, three days after the victim was last seen. He said that he had driven to a bowling alley at 6 p.m. on the night of the crime and didn't know anything about the murder. He was given a polygraph test – which investigators said was inconclusive – and police checked his truck for fingerprints and trace evidence. He was released without charges at that time. More than two years later, however, investigators were still working on the case and asked Barnes to submit blood, saliva and hair samples. He was arrested in March of 1988, more than two years after the crime, and charged with rape, sodomy and murder.

### The Trial and Forensic Evidence

Barnes was tried by a jury in Utica beginning on May 15, 1989. A forensic analyst testified at his trial that no fingerprints collected from Barnes' truck matched the victim's. Although tire print comparison has never been a validated forensic practice, the tracks from the crime scene were compared with Barnes' truck tires and investigators determined that they did not match.

Serological evidence was introduced at trial and also did not point to Barnes. Dr. Elaine Pagliaro, the supervising criminalist at the Connecticut State Police Forensic Laboratory, testified that seminal fluid was detected on the victim's underwear and on swabs taken from her body and that serology testing was conducted. The results matched the victim's blood type, and were inconclusive regarding Barnes, who is a non-secretor (his blood type is not revealed from bodily fluids such as semen and saliva). DNA testing conducted before trial was inconclusive.

Three forms of unvalidated forensic science were used against Barnes at trial, however. Pagliaro testified that she conducted a photographic overlay of fabric from the victim's jeans and an imprint on Barnes' truck and determined that the two patterns were similar. The state then entered testimony from a self-employed manufacturers' representative who told the court that the stitching on the brand of jeans the victim wore was unique and that as many as 200 pairs may have been sold in Oneida County, New York, in 1985.

Pagliaro also testified that two hairs collected from Barnes' truck were microscopically "similar" to the victim's hairs and dissimilar from Barnes' hair. She added that no hairs similar to Barnes' samples were found on the victim's body. Pagliaro's lab also compared soil samples taken from Steven's truck with dirt samples taken from the crime scene a year after the murder and testified that they had "similar characteristics." Microscopic hair analysis, soil comparison and fabric print analysis have not been validated scientifically. Because there is not adequate empirical data on the frequency of various class characteristics in human hair, soil samples or imprints, the analyst's assertion that these items of evidence were consistent or similar is inherently prejudicial and lacks probative value.

The state also introduced the testimony of a jailhouse informant, who said Barnes confessed to him while in jail awaiting trial more than two years after the crime. The informant, Robert Stolo, was in custody on forgery and larceny charges. He met Barnes at the jail and they were on the same cell block for about a week. Stolo told the court that he talked with Barnes along with another inmate, who had asked Barnes about some girls and Barnes purportedly asked in return, "You mean the one that I killed?" then corrected himself by saying, "I mean the one that I am accused of killing?" Stolo, however, was housed for that week several cells away from Barnes and couldn't remember when or where this conversation happened. Stolo testified that he didn't expect a lighter sentence for his testimony, and that he received a one-year sentence for his conviction.

Barnes' attorney called several witnesses who testified that he was at a local bowling alley at the time the crime was allegedly committed. He was convicted of rape and murder and sentenced to 25 years to life in prison.

### **Post-Conviction Appeals and Exoneration**

The Innocence Project began representing Barnes in 1993 and secured DNA testing on his behalf in 1996. The Oneida County District Attorney consented to conducting DNA tests on evidence from the crime scene, but those tests were inconclusive because the DNA technology at the time did not yield a profile. A decade later, in 2007, the Innocence Project reopened the case, and Oneida County District Attorney Scott McNamara agreed to conduct DNA testing. This round was conducted using Y-STR testing, an advanced technology that had not been previously available.

The new tests yielded conclusive results on sperm cells from the victim's body and clothing – none of which matched Barnes. After serving almost two decades in prison for a murder and rape he didn't commit, Barnes was freed on November 25, 2008. His exoneration became official on January 9, 2009, when prosecutors announced that they were dropping all charges. Shortly after his exoneration he celebrated his 43rd birthday – the first one at home in two decades.

<http://cornellsun.com/node/43880>

# Exoneree Speaks About Experience With Justice System

By *Ben Gitlin*

Created Oct 5 2010 - 11:00pm



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October 6, 2010

By [Ben Gitlin](#) [7]

At the age of 23, Steven Barnes was convicted in the rape and murder of 16-year-old Kimberly Simon based on inconclusive DNA evidence and imprecise eyewitness testimony, and sentenced to 25 years to life imprisonment for a crime that he did not commit. He served nearly 20 years of that sentence in several New York State prisons before his case was reexamined using advanced DNA technology and he was exonerated.

On Tuesday, Barnes shared his story with approximately fifty Cornell students and faculty members in Myron Taylor Hall.

At times he poked fun at the absurdity of his situation, and at other times he preached the life lessons he had come to learn after two decades of introspection; but, for the most part, Barnes was soft-spoken and reflective, chronicling his life with careful attention to detail.

He admitted that he still felt “a little weird” readjusting to life outside of jail, but that he has lived every day since his release “like it’s Christmas.”

“Every day is a holiday, every day,” he said. “I missed a lot. I missed family members that passed away ... I had a girl I was in love with [before I went to prison] and I had to tell her to go find another guy, she had to live her life.”

“I lost seven years of my 20’s, 10 years of my 30’s and three years of my 40’s,” he added.

It was 1985, and Barnes was 19 years old, when police first began investigating him as a prime suspect in Kimberly Simon’s death. Witnesses, who would later testify against Barnes in the case, said that they saw his “distinct” truck parked near the street where the victim was murdered, according to a summary of the case published by the Innocence Project. Other witnesses said that they saw a young man who “matched Barnes’ description” parked alongside the street that night.

Three days after Simon’s death, Barnes said that police investigators brought him down to the station and questioned him for 12 straight hours. Barnes maintained his innocence, saying that he had been at a bowling alley that evening.

“They verbally harassed me,” he said. “They kept calling me a liar, telling me I was lying.” He added that he was given a polygraph test, which proved inconclusive.

Police would follow Barnes for the next three years, as they worked to build a case against him. Investigators tailed him and questioned his girlfriend and others about “what type of person” Barnes was and “what movies he liked.” Barnes recalled that police once followed him and his girlfriend on a ski vacation and he actually saw one of the investigators skiing down the mountain past him.

On May 15, 1989, Barnes was officially arrested and tried by a jury.

Barnes said that several witnesses came forward at the time of the trial who had previously been uninvolved with the case. He said that one off-duty police officer suddenly came forward at the time of the trial, stating that he had been driving down the street around the time of the murder and could definitively place Barnes and his truck on the block that night.

“He was only able to identify me three and a half years later — he had a better memory three and a half years later,” Barnes said. “He also happened to be running for a sheriff position [the year of the trial.]”

According to the Innocence Project’s summary, prosecutors also entered into evidence hairs that were recovered from Barnes’ truck that they said were similar to the victim’s and soil samples from his tires that they said had “similar characteristics” to dirt at the crime scene. Nothing proved definitive, however.

Barnes would ultimately be convicted and taken to a prison in upstate New York.

“I was 23 years old, never been in trouble before in my life, I thought I’d be home in a couple of years. Little did I know it would be nearly 20 years,” he said.

Barnes described life in prison as “hell on earth.” He said that he was once stabbed by an “icepick” in his arm and was forced into several fights.

“I’ve personally seen guys murdered,” he said.

Barnes said that guards would come back after having bad days with their wives and their girlfriends and then take it out on inmates.

“Prison is a place where you’re forced to live around people you hate,” he said.

“You have no friends in prison,” he added. “Everyone who you thought was your friend — your homeboys — aren’t, they don’t want anything to do with you. All you have is your brother, your sister, your mom — that’s it.”

All the while, Barnes worked to clear his name.

From prison, he penned a ten-page letter to the Innocence Project — which works to exonerate wrongly convicted prisoners based on advanced DNA testing techniques — pleading with them to open his case.

Though they agreed to take on his case in 1993, they did not have the technology available in 1996 when the DNA tests returned to officially exonerate him, as the tests were ruled inconclusive.

More than a decade later, Barnes said that his brother went down to the Innocence Project and begged them to reopen Barnes' case. They agreed, and shortly thereafter — using a previously unavailable DNA technology called Y-STR — he was freed.

“It was Nov. 1, 2008, it was on a Friday. I’ll never forget,” Barnes said. “I spoke to my mom on the phone — she was crying. I thought something had happened and she said, ‘you’re coming home.’”

Barnes said that he instantly dropped the phone and started crying.

“I remember when I was sentenced it was tears of sadness, but now it was tears of joy,” Barnes said.

Barnes said that the first thing he did when he was released on Jan. 9, 2009 was eat a steak.

“I said to the waitress, ‘Well, what do I do with this?’ I hadn’t eaten real food since I was put in prison,” he said with a laugh.

Today, Barnes is a program coordinator for youths working to earn their GEDs. He said that, for his job, he needed to take a course on how to use a computer and also asked his niece to teach him how to use a cell phone — two technologies that significantly evolved during his time in prison.

He has also previously worked as a counselor for recently-released inmates, as they begin to readjust to life in the outside world, and frequently goes on speaking tours around the country to spread awareness about the Innocence Project and about prisoners who have been wrongly convicted — a problem that, he said, is more common than many believe.

In the meantime, Barnes is just enjoying his freedom.

“A lot of people don’t think about freedom till it’s gone,” he said. “It’s just so nice to take a walk outside. For 20 years of my life, I needed to ask permission to just take a shower and use the rec. room.”

