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## DNA Helps Clear Man's Name from Rape Charge After 24 Years

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## Metro

# DNA helps clear man's name from rape charge after 24 years

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Nearly 24 years ago, Michael Phillips pleaded guilty to a crime he didn't commit.

With a 16-year-old rape victim identifying him as the attacker, he thought that was his best hope to reduce his time in prison.

That was about the last hope he had as he served 12 years and faced being tagged a sex offender for life.

Phillips, who was released from prison in 2002, never actively sought to be exonerated. And he didn't request the DNA testing that led a judge to clear his name Friday.

The fact that Phillips, 57, did not pursue vindication and yet lived to see his conviction reversed makes his case unique, the Dallas County district attorney's office says.

In September 1990 a man in a ski mask raped a girl in a Dallas motel where she lived, officials say. She managed to pull up the ski mask enough to see the attacker's face during the attack. Phillips lived in the motel, and the teenager picked out Phillips' photo from a six-picture lineup, records say.

At the time, DNA samples were not routinely collected nor matched with DNA found in evidence.

Phillips insisted he was innocent but pleaded guilty to sexual assault because his defense counsel had told him a jury trial could lead to a harsher punishment, according to the Dallas County district attorney's office.

He was released from prison in 2002 and later served six months for failing to register as a sex offender.

Phillips, who has sickle cell anemia, now lives in a nursing home.

A few months after District Attorney Craig Watkins took office in 2007, he established the Conviction Integrity Unit to review old cases.

Starting in 2009, the unit teamed up with two law professors and the Southwestern Institute of Forensic Sciences to audit rape kits and determine whether the DNA in the kits matched the people convicted of crimes.

The professors and the district attorney's office sifted through about 1,400 rape cases from 1990, when DNA testing was not common.

The team looked for cases in which the identity of the attacker was not confirmed and an untested rape kit had been kept at the Southwestern Institute of Forensic Sciences.

The reviews have resulted in 34 exonerations, including Phillips'.

In Phillips' case, forensic scientists traced samples from the rape kit to Lee Marvin Banks, now 53, who was also living in the motel where the rape occurred.

Banks denied committing the rape when he was asked about it in 2012, said district attorney spokeswoman Debbie Denmon.

She said the office can't pursue a case against Banks because the statute of limitations has expired. But she said an addendum could be made to his criminal record to show he had a DNA match in a sexual assault case.

The victim lives out of state now with her three children. She keeps several dogs for protection because she still has not been able to get over her attack, Denmon said.

Earlier this month, members of the Conviction Integrity Unit visited the victim's house to tell her about Phillips' exoneration, Denmon said.

"She was very distraught," she said. "She broke out in tears and couldn't believe she picked the wrong person."

Phillips requested DNA testing 10 years ago, but his request was denied under Watkins' predecessor, Bill Hill. He didn't ask again.

Colin Starger, a law professor at the University of Baltimore who helps with the district attorney's review project, said Phillips' exoneration is unusual because he didn't actively seek it. It came "like a bolt out of the blue," Starger said.

"A guilty plea — there's something special about that because it shows that even when the defendant says that 'Yes, I did the crime,' they might be doing it because of the pressure to avoid an even harsher sentence," Starger said.

About a dozen exonerees sat in the courtroom gallery Friday to watch Phillips' exoneration hearing — a symbol of the brotherhood among people who have faced false convictions.

Phillips, who entered court in a wheelchair because of his health problems, was mostly quiet before the hearing started.

Occasionally, he looked over at his attorney and smiled.

During the 10-minute hearing, District Attorney Craig Watkins and District Judge Gracie Lewis publicly apologized for the false conviction.

"This is a great day for Mr. Phillips, but this is a terrible day for our justice system," Watkins said after shaking Phillips' hand. "This is just an indication of how we need to improve as lawyers and as prosecutors."

The Texas Court of Criminal Appeals is expected to verify Phillips' exoneration and officially enter it into court records within 30 days. Phillips will then be eligible for \$960,000 from the state as compensation for the time he spent in prison, Denmon said.

When the hearing concluded, Phillips' family and supporters rushed to the defense table to congratulate him.

"This means a lot to me. That's my baby brother," said his sister, Betty Wilkerson.

Phillips declined to talk to reporters after the hearing.

"I'm here because of my father," Phillips, who many people described as religious, told his relatives.

Starger said Watkins' and the judge's apologies were "not something that you see as commonly as you should in other jurisdictions." Although the exoneration is meaningful for Phillips, Starger said it might not do much good because of his failing health.

"It's not as exuberant an occasion as it is for others," he said. "His life is very difficult right now, and in some ways, this [exoneration] is going to make it better. But his struggle is still there in a very profound way."



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