

Advertisement



Powered by Clickability

Those cleared by DNA tests struggle to be free

By Kevin Johnson, USA TODAY

ST. LOUIS — Johnny Briscoe thought his nightmare was over in the summer of 2006 when, after 23 years of proclaiming his innocence, he finally walked out of a Missouri prison.

DNA evidence lifted from a cigarette butt should have stripped away any doubt that another man — not Briscoe — had raped and robbed a woman in her suburban St. Louis apartment on Oct. 21, 1982. Yet Briscoe's exoneration, featured by national news organizations, did not fully free him from the persistent doubts of acquaintances and family members about his innocence, or from the emotional scars seared by more than two decades in prison.

"Rape," says Briscoe, 54. "Now, that's a provocative word. When I try to explain it, it's a bitter pill."

Nearly 90% of the 227 people cleared by DNA evidence since 1989 were convicted of some of the most heinous sex crimes, according to the Innocence Project, which helps inmates prove their innocence through DNA testing. DNA — present in blood, semen and body cells — can be particularly useful in solving sex crimes and often is the most definitive way of determining innocence.

Yet not even DNA washes away the lasting stigma that shadows once-convicted sex offenders who are cleared by genetic testing, and the criminal justice system that wrongly jailed them offers little help. Briscoe's plight is part of a silent struggle for a rising number of exonerees. After high-profile releases from prison, they often fend for themselves.

Most states did not account for the exonerated when officials started re-entry programs for the hundreds of thousands of offenders released in the U.S. each year. Most are ineligible for basic benefits, such as counseling and job training, that states give guilty offenders when they re-enter society.

Despite legislative campaigns to get the wrongfully convicted financial help to compensate for the years lost in prison, 25 states still don't do so. In states that do, the money or services often are offered only if the exonerated waive their right to sue. Such lawsuits seek monetary damages for wrongful convictions and compensation for time in prison.

The burden of re-integration into society is heavier for wrongly convicted sex offenders than for other exonerees, says Sim Platek, a New Jersey social worker who counsels exonerees, including those wrongfully convicted of sex

Advertisement



Mama
always
says..

taxact.com

crimes. "The shame of it goes deeper than any other shame," he says. "Very rarely do you see people fully recover from this immediately."

Charles Chatman, 48, a Dallas-area man freed last year after 26 years in prison, tells of his "shame" in dealing with family members, many of them women, after his wrongful conviction — and even his exoneration — for aggravated rape.

Other exonerees, such as Jerry Miller, 50, of suburban Chicago, carry court papers as commonly as driver's licenses to prove to potential employers and others that their convictions were overturned. Miller was convicted in the 1981 rape and kidnapping of a Chicago woman and spent 24 years in prison. He finished his sentence before being exonerated. In 2007, a year after his parole, he was cleared by DNA testing of the victim's clothes.

Illinois officials required him to register as a sex offender and attend counseling after his release but before his exoneration.

"My picture was on the Internet," he says of the required photo on the public sex offender registry. "I thought prison was bad. But (outside) I was like the scum of the earth." Illinois officials have since removed him from the state's database.

James McCloskey, founder of Centurion Ministries, a Princeton, N.J.-based group that works to free the wrongfully convicted, describes the stigma as "a tremendous barrier."

"When you hear the word 'rape,' " McCloskey says, "it scares the bejesus out of people."

'Seed of doubt'

Rob Warden, executive director of the Center on Wrongful Convictions at Chicago's Northwestern University, says the indignities many exonerees suffer can be mind-boggling.

"There are people out there totally exonerated, absolutely innocent who get notices that they need to register as sex offenders," Warden says.

Platek says it is not unusual for some, after long periods in prison and protracted struggles to win exoneration, to exhibit symptoms similar to post-traumatic stress disorder. Others, he says, slip into depression, abuse drugs and alcohol or have paralyzing flashbacks to their time in prison.

Among states that provide compensation, 10 also offer some tuition, health care or job-search counseling. The Innocence Project and its affiliates are pushing for uniform compensation laws and urging social service agencies to help exonerees.

In Texas, for example, a group of defense lawyers got a local clothing store to give shirts, pants and jackets to exonerees who leave prison with no street clothes. Most were wrongfully convicted of sex crimes, and many scramble after their release to find shelter, health care and jobs.

Even when they find work, stability can be elusive. One 58-year-old Centurion Ministries client, cleared of rape in 2006, was hired by a New Jersey food store about two years ago, McCloskey says.

A prison guard who visited the store recognized the former inmate, and word spread among other workers that the business had hired a sex offender.

As a result, McCloskey says, the former inmate was transferred to another store 70 miles away, then fired. Rather than sue the employer and call more attention to himself, he looked for a new job.

"There is always that stigma, that seed of doubt that follows these guys," McCloskey says.

Miller says he "dreaded" Halloween 2006 after his release from prison because, as a registered sex offender, he could not interact with children. On Halloween, he says, he felt humiliated when three police officers arrived to ensure he was complying.

"I was told that if I answered the door, I would be arrested," Miller says. "So, I cut off the lights and sat there by myself. That was pretty tough."

'He was still incarcerated'

When Johnny Briscoe came home July 19, 2006, time had rearranged the streetscape of his hometown St. Louis and dramatically altered his family.

Close relatives, including his father, had died while he was in prison. His son, Donyea — 2 when Briscoe was convicted — was 25. "I couldn't believe it," says Briscoe, a carpenter and handyman.

For months after his release, Briscoe spent most of his time in the tiny, upstairs bedroom of his mother's house. He arranged the room much like his prison cell — everything within arm's reach.

"He was acting like he was still incarcerated," says his sister, Ruth Briscoe. "I think he was more scared being out than being in (prison)."

Briscoe, a soft-spoken man with an easy smile, felt secure enough to leave home only with a "witness." He believed he needed a companion, usually Ruth, to vouch for his whereabouts and to help him avoid encounters — no matter how innocent — that could leave him vulnerable to accusations.

When he did go out, he didn't go far. And he was always back by 10 p.m. "I didn't want to fall into any traps," he says of the sexual assault charges levied against him more than two decades earlier.

In that case, a victim whom he had never met, in a part of town he had never visited, picked him out of a police lineup. Mistaken identity by witnesses and victims is one of the most common factors in wrongful convictions, the Innocence Project says.

He was included in the lineup after another man who later was implicated in the crime — an acquaintance of Briscoe's — identified himself to the victim as "John Briscoe."

The false identification started a chain of events that ended in Briscoe's 1983 conviction and 45-year prison sentence. For about five months, he was in a cell next to the acquaintance, Larry Smith.

After suspecting Smith's possible connection, Briscoe confronted Smith outside their cells one day. "He denied it," Briscoe says.

Smith is serving a life sentence for a separate sexual assault at the same apartment complex involved in Briscoe's case. Smith was identified in 2006 in the same DNA tests that excluded Briscoe.

Although the DNA evidence points to Smith, J.D. Evans, St. Louis County's first assistant prosecutor, says the testing was not conclusive enough to support formal charges against Smith.

"For a year and a half (after being released), I was really paranoid," Briscoe says.

His ex-wife, Lynette Briscoe, 54, and Donyea also felt uneasy. Lynette, who divorced Briscoe 10 years into his prison term, says she was "angry" he was convicted and she was left alone. Even she was not convinced of her former husband's innocence.

Neither was Donyea. Ruth says her nephew came to her after Briscoe's release. "He didn't know how to talk to (his father)," she says. "He was more comfortable asking me, 'Do you think he did that?'"

Since then, Johnny Briscoe says he and his son rekindled a relationship denied 23 years ago. Lynette Briscoe, who never remarried, is seeing her former husband again. "Our life was taken away from us," she says, and a "chapter was never closed."

Other family members remain distant. "They believe that he's still a convict," Ruth Briscoe says.

"I just leave it be," her brother adds. "I can't change it."

No simple answers

Briscoe's attorney, Burton Newman, says his client is trying to regain a sense of normalcy.

Briscoe is suing St. Louis County and four county police officers for his wrongful conviction rather than accept state compensation of \$36,000 for every year spent in prison.

It could take months to resolve the lawsuit, but he's now comfortable enough to go shopping and run errands alone.

Yet his search for full-time work has been a bust. Applications for about a dozen positions have gone unanswered. The sour economy is a factor, but Briscoe suspects many prospective employers are turned off by his background. On each employment application, he says he has acknowledged the conviction and the circumstances of his exoneration.

To improve Briscoe's chances of getting work, Newman recently advised him not to admit to the conviction, arguing that it has been wiped away by exoneration. Exonerations clear criminal records, but it often takes time to update the system. Some wait months for pardons.

For Briscoe, there is no simple way to deal with questions about his past. "It is my job to convince everyone I didn't do this," he says.

Jessie Burnley, Briscoe's 80-year-old mother, has no trouble defending her son. She carries a news clipping of his release — frame and all — to show anybody who asks. "I take it to church, everywhere, to tell (people) that my son is innocent," she says.

Find this article at:

http://www.usatoday.com/news/nation/2009-01-27-exonerated_N.htm

☐

Check the box to include the list of links referenced in the article.

Copyright 2008 USA TODAY, a division of Gannett Co. Inc.