

Barry Beach Freed On Own Recognizance After 29 Years Behind Bars

Written by
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LEWISTOWN — Barry Beach walked out of the Fergus County Sheriff's Office Wednesday at about 3 p.m.

After spending the last 29 years of his life behind bars, the first thing Beach wanted to do was hug his mother, Bobby Clincher, for more than just 45 seconds.

"They only give us 45 seconds in prison," Beach said.

Just moments earlier, Fergus County District Court Judge E. Wayne Phillips released Beach without bail.

"It is this court's determination that it can release Mr. Beach on his own recognizance," Phillips said.

The ruling was met with elated cheers from the crowd of 50 or so supporters packed into the tiny Fergus County courthouse.

Those cheers earned a stern rebuke from the judge, who threatened to clear the courtroom if there were more outbursts.

Not long after the judge finalized his ruling, Beach was escorted out of the courtroom by Roosevelt County sheriff's deputies across the street to the jail. Beach emerged from jail about 20 minutes later wearing jeans and a Washington Redskins jersey for Hall of Fame cornerback Darrell Green, Beach's favorite player.

Beach said it was no coincidence that Green's number, 28, also was the number of years he spent behind bars. Actually he spent 28 years and 11 months behind bars. He was arrested on Jan. 3, 1983.

Beach, 49, was serving a 100-year prison sentence for the 1979 murder of Poplar teen

Kim Nees, a crime he insists he didn't commit.

Last month, Phillips ruled that new evidence presented by witnesses at an evidentiary hearing in August was credible and compelling enough to grant Beach a new trial. As such, Beach's conviction was effectively overturned, making him eligible for bail.

"First and foremost I want to thank God. This is proof of the power of prayer," Beach said as he stood outside the sheriff's office with his arm around his tearful mother.

Phillips determined that Beach was not a danger to community and that the 29 years he spent behind bars was already more than most people spend in prison for similar crimes.

Late Tuesday, Attorney General Steve Bullock's office filed a notice of intent to appeal Phillips' November ruling granting Beach a new trial. The state also sought to stay Wednesday's bail hearing pending a state Supreme Court ruling on the appeal.

But the judge denied the state's request for a stay, saying he stands by his order to grant Beach a new trial.

The state then asked for the judge to set bail at \$250,000. Chief prosecutor Brant Light argued that the heinous nature of the crime warranted a hefty bond.

After Wednesday's ruling Brant Light, chief prosecutor for the state, indicated that the state will fight to return Beach to prison.

"We have an obligation to defend a murder conviction rendered by a Montana jury against a man who confessed to the most serious of crimes," Light said. "This is one more step in a lengthy legal process, and the final word has not been spoken."

Jim McCloskey is the founder and director of **Centurion Ministries**, the New Jersey-based nonprofit group that has worked for more than 12 years to free Beach.

McCloskey called the attorney general's office's continued prosecution of Beach a "sin against humanity."

"We have got a ton of work ahead of us, but maybe at last, through a new trial, maybe we'll get to the ultimate truth," McCloskey said.

McCloskey and Beach's legal team have long maintained that evidence implicates a group of jealous girls in Nees' murder.

Physical evidence at the scene of the killing has never been tied to Beach. The owner of a bloody palm print left on the passenger side door of the truck Nees was driving the night she was attacked has never been identified. Multiple sets of fingerprints and

footprints have never been linked to anyone.

Beach's legal team believes that a new trial would bring to light evidence that not only proves Beach is innocent but would implicate the real killer or killers.

McCloskey said despite the outcome of the appeal to the Supreme Court, he's confident Beach has seen the last of the inside of a prison cell.

"Barry is out for good and will not see another day in jail," McCloskey said. "We're not finished yet. He's not totally free yet, but we will continue to fight to the end until all the charges are dismissed and this nightmare is over for Barry once and for all."

After the hearing concluded, Beach's mother, Bobbi Clincher, said she felt like she was floating.

"I wasn't sure that it would happen," Clincher said. "We had come so far and then the state wanted to postpone it. After 29, almost 30 years, it's hard to imagine we can do all this in just what, two hours?"

Beach will live in Billings with business owner and former county commissioner James "Ziggy" Ziegler and his wife Stella.

He will have to obey a litany of conditions as part of the terms of his release.

Among those conditions, Beach:

- » can't leave the state without permission from the attorney general's office;
- » can't change his residency without 30 days notice;
- » can't contact the victim's family or any of the prosecution's witnesses;
- » must have employment, though the judge gave him some time to transition from prison;
- » can't consume alcohol;
- » and can't possess firearms or dangerous weapons.

Ziegler testified during the bail portion of Wednesday's hearing that he would take Beach in and help him re-adjust to life. Ziegler, who met Beach in 1984 through a prison ministry program, said he would have no concerns about Beach's ability to live by the terms of his release.

"Tomorrow we're going to get a copy of the order, and we're going to review it top to

bottom as many times as we need to to make sure we understand exactly what is expected of Barry," Ziegler said in an interview after the hearing. "And if Barry violates the terms, I will report him and he knows that. But he also knows there's too much at stake to step out of line now."

Terry Toavs, one of Beach's attorneys, said he will celebrate briefly before getting back to work.

"I'm extremely pleased. It's a bit surreal to have something this extraordinary happen," Toavs said. "The AG's office is a fierce opponent, and we fully expect a strong appeal. So we'll have a moment of celebration for now and then back to work." At a reception at a nearby hotel to celebrate Beach's release, Beach said while he's elated to be out of prison after nearly 30 years, he knows he has a long road ahead.

"The hardest part is going to be learning how to live in society. I'll have to learn about health insurance and car insurance, and I'll have to learn about the banking system ... the fundamentals of society," Beach said. "Experiencing life and enjoying life is the easy part, being successful at life is going to be the challenge."

Beach said he was grateful to the witnesses who came forward and testified on his behalf at last summer's evidentiary hearing.

"It was the courage of those witnesses that was the turning point," Beach said.

Most of all, Beach thanked God and his supporters.

"This picture is proof that the United States of America still believes in right and wrong, and when there's a wrong, you correct it," Beach said.

Beach said he hopes to spend some of his newly realized free time working to help wrongly convicted prisoners fight for their freedom.

"Prisons were not made for humans," Beach said.

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http://www.youtube.com/watch?feature=player_embedded&v=0D9f_JgCFdE

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