Weather
Wetsday.
Cloudy, chance of showers.
High 72, low 48.
Details, page A-22

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Brandley free after 10 years

Carlos Rosales/The Houston Post

A smiling Clarence Brandley gets a hug from his mother at the home of Clarence's sister, Ola.

Elderly mom finally gets to hug her son

By Guy Cantwell
OF THE HOUSTON POST STAFF

HUNTSVILLE — Clarence Brandley stepped into the sunlight of freedom Tuesday to the cheers of prison inmates and later in Houston to the teary hugs of relatives he hasn't embraced in the almost nine years he spent on death row.

After a cheering send-off from prison staff members and the death row wing inside Ellis Unit 1, Brandley walked through two gates flanked by razor wire-rimmed fences.

"Way to go, Clarence!" yelled one inmate from the prison recreation area. "Be free, Brandley!" shouted another.

After a reunion with his brother, Ozell Brandley, and 18-year-old son, Clarence Brandley Jr., Brandley told reporters he looked forward to at last hugging his mother.

The embrace finally came at a southeast Houston house of one of his sisters Tuesday night.

"Oh good Lord! Oh thank you

Please see **REACTION, A-10**

REACTION: Friends gather in celebration

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Lord! Thank you Jesus!," shouted his 79-year-old mother, Minnie Ola Brandley, sobbing and hugging her son in the sunken living room of the house.

Throwing her hands in the air, Minnie Brandley plopped down on the couch, her smile beaming, her teary eyes on her son who had exchanged his green and black checkered shirt and brown pants from prison for a white shirt, green tie and black pants.

Brandley appeared Monday night, and he said at the prison that his release is not "a vindication of the system. It has been nine or 10 years. I still haven't been exonerated."

Brandley said he shared the elation of his supporters, his attorney, Mike DeGeurin, and DeGeurin's team.

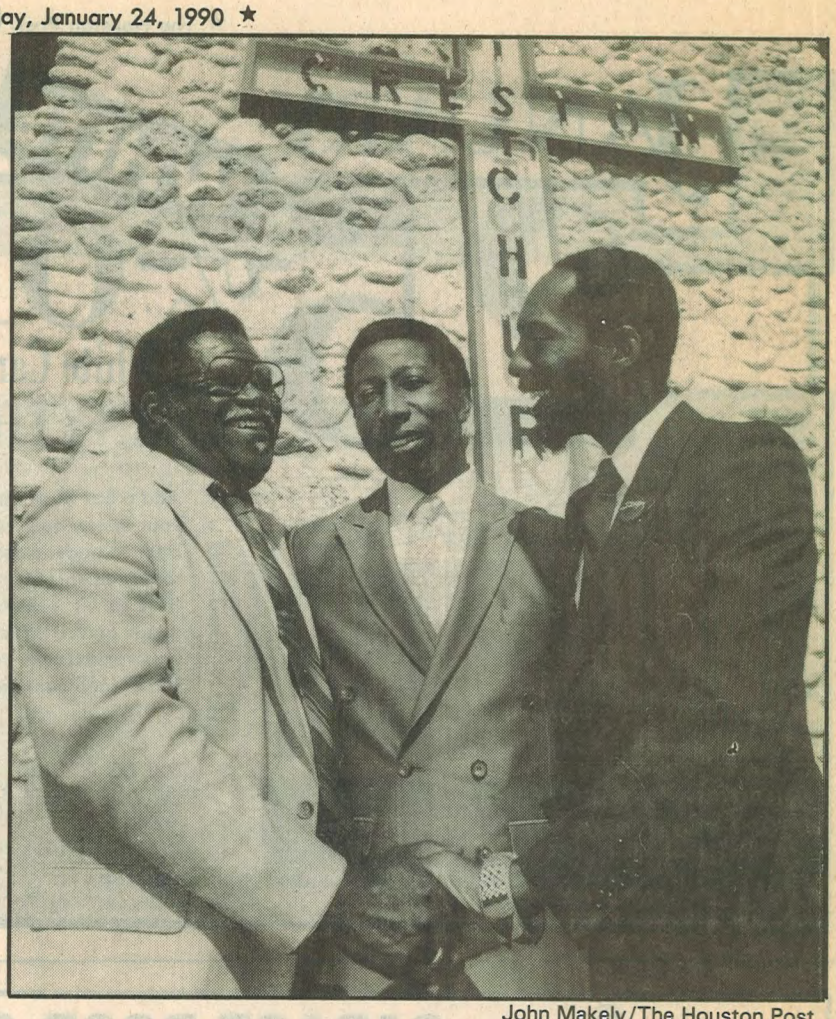
"It feels great. This is the first person to walk past death row a free . . . person and there's not a feeling in the world that surmounts this. It's just complete joy," said Jim McCloskey, an investigator for DeGeurin.

DeGeurin said Brandley was "shaking all over" before he left the prison, composed but seemingly in shock.

"He's still in shock," DeGeurin said at Creston Baptist Church in northeast Houston.

Inside the church, McCloskey issued a prayer in which he accused Montgomery County officials of constructing "a mountain of perjury against" Brandley.

"And through your strength and inspiration that mountain has been leveled and the valley of freedom has occurred," prayed McCloskey, who also heads Centurion Ministries Inc., of Princeton, N.J., which attempts to help convicts who have been dealt with unfairly by the justice system.



John Makely/The Houston Post

Creston Baptist Church Pastor Leroy Ross, the Rev. Ozell Brandley and the Rev. Jew Don Boney celebrate Tuesday as they plan activities for Clarence Brandley's release.

Brandley expressed his thanks to his family, attorneys and supporters, adding: "This is a very great moment to me."

Ozell Brandley, who is an associate pastor at the church, said he was overjoyed Tuesday when he learned of his brother's release.

"It feels great, fantastic, like a mountain has been taken off us and for the first time we know what freedom is all about," he said.

Ozell Brandley said his brother's release "will also allow Cheryl Fergeson's murder to be avenged. Montgomery County has spent all this time trying to prosecute innocent Clarence and protect the two chief suspects."

Clarence Brandley Jr. said he, too, was happy. "This is a very happy day for me," he said.

Brandley's sister, Margaret Arbuckle, a member of Creston Baptist Church, said church members have prayed "continuously each Sunday and on Wednesday and Tuesday nights" for her brother's release.

"I was very, very nervous (about the release) and I'm still nervous, but we have a great deal of faith in the government and we know that with God nothing is impossible," she said.

CHARGED: Police hold ex-Brandley co-worker

From A-1

relationship that resulted in the assaults."

Peace, who is unemployed, was being held Tuesday night in the Liberty County Jail without bail.

Peace, who found the body of the teen-age girl that Brandley was convicted of killing, was a suspect during the preliminary investigation in the 1980 Conroe murder case.

He testified in an October 1987 evidentiary hearing for Brandley that resulted in a judge recommending the Texas Court of Criminal Appeals grant Brandley a third trial in the rape and strangulation case of Cheryl Dee Fergeson.

Peace, who now lives near Cleveland, became the subject of the recent investigation on Nov. 27 when the girls' parents reported the assaults to authorities, Stewart said. The Liberty County Children's Protective Services interviewed the girls, the sheriff said, and a physical examination later confirmed they had been sexually assaulted.

Peace was arraigned in Cleveland before Justice of the Peace Charlie Morgan, who ordered the suspect to be held without bail. Stewart said the case will be referred to a grand jury.

Peace was working at Conroe High School on Aug. 23, 1980 when Fergeson — the manager of the Bellville High School volleyball team — was raped and strangled shortly after she arrived with her team for a tournament.

He testified during Brandley's two trials that he was in another part of the high school when Fergeson went into a bathroom, followed closely by Brandley. He said Brandley told the three janitors at the scene to go across the street and wait for their next assignment.

Peace, in searching the school with Brandley, later found Fergeson's nude body in an auditorium loft after being told to search the area three times by Brandley.

Defense attorneys in Brandley's two trials suggested it was Peace, not Brandley, who killed Fergeson.

Brandley's current attorney, Mike DeGeurin, obtained a stay of execution for Brandley in January 1986 with a claim that the state had withheld a statement implicating Peace in the slaying.

BRANDLEY: $75,000 bail ends death row stay

From A-1

have been hurt, people who have felt injustice . . ."

Asked if he would return to Conroe and Montgomery County where his mother lives, Brandley said, "It won't be Montgomery County. That's definite."

The release comes after a decision almost six weeks ago from the Texas Court of Criminal Appeals that reversed Brandley's murder conviction on charges of raping and strangling Cheryl Dee Fergeson, a 16-year-old Bellville volleyball team manager, Aug. 23, 1980.

Reaffirming Tuesday that a retrial is not planned, Speers announced he would seek a review of the case by the U.S. Supreme Court, his only option short of asking a court to dismiss the indictment against Brandley.

"He's likely to be free if the Supreme Court does not hear it," Speers told a morning press conference.

Brandley's lead defense attorney Mike DeGeurin said the "fight will go on" and predicted Brandley would be vindicated if he were tried again.

"I think we're in as good a position as could be," said DeGeurin, whose firm has taken on Brandley's appeal for no fee.

Speers said constitutional experts have told him he has valid points to raise on appeal but conceded the chances of the Supreme Court reversing the decision are "purely speculative."

"I can't tell you I'm confident the Supreme Court will agree to hear it," Speers said.

Speers has about 90 days to file the appeal and said he would expect to hear if the Supreme Court will consider the matter within two months of the filing date. DeGeurin said it could take two years for the Supreme Court to begin hearing the claim if it accepts it for review.

Bail became a possibility Tuesday only because the prosecutor agreed not to seek a stay of the appeals court decision while he takes the appeal to the Supreme Court. Speers could have sought a stay of up to 60 days and additional delays could have been requested from the Supreme Court.

Speers said he accepted a bail proposal from defense counsel in the interest of fairness Sunday because "there are no assurances the court will hear the case."

"I won't keep him in jail simply for the sake of keeping him in jail," Speers said.

He recognized that strong emotions have been aroused by the case, which has drawn nationwide press coverage and sparked protests across the state claiming that Brandley, a black man, was railroaded by a corrupt, racist system.

Speers said he agreed to bail to counter the criticism of those who feel he has "a personal vendetta" against Brandley and to avoid the possibility of violence, which he said has been threatened if Brandley were not released.

"Further demonstrations in the case are not necessary. It's time for all that to come to an end (and for) the legal process to go its way," Speers said.

Speers said his Supreme Court challenge will contest "serious errors in constitutional intepretation" made by the state court in reversing the conviction.

The appeals court decision appeared to be based on "the novel theory of ineffective assistance of police," Speers said.

He said the appeals court was "simply wrong" to find that investigators, by failing to take certain steps, engaged in constitutional "due process" violations.

The appeals court in a 6-3 decision cited intimidation tactics on the part of investigators and the unwillingness of police to take hair and blood samples from suspects other than Brandley as evidence that the prosecution lacked "the rudiments of fairness."

Speers sought a rehearing from the state court but that was denied last week.

He had the option of filing a second motion for rehearing with the state court but told DeGeurin Sunday that he would not file that motion or seek to delay implementation of the appeals court order if suitable bail could be negotiated.

Once Speers and DeGeurin settled on $75,000 bail, DeGeurin went to Austin Monday and persuaded the appeals court to issue its mandate almost two weeks earlier than originally planned.

With that in hand, DeGeurin traveled to Conroe Tuesday to obtain a bail ruling from the district court. The judge also granted DeGeurin an order instructing state prison officials to release Brandley directly to the custody of defense attorneys.

Prison officials at first resisted that form of releasing prisoners, saying that concerns about prisoner liability made release to Montgomery County officials preferable.

Prison officials later reversed their position and Brandley was released at 1:38 p.m., less than a day after DeGeurin had obtained the final order from state court.

Brandley left prison with DeGeurin, attorney Paul Nugent and investigators Richard Reyna and Jim McCloskey and drove to Creston Baptist Church in Houston, where he hugged his son, brother and other supporters.

Asked if he was bitter about his ordeal, Brandley said, "I think anyone would be bitter. But after a period of time, that passes."

He said, however, that the appeals court decision was no vindication of the legal system.

"It has been about nine or 10 years. I'm still not exonerated," Brandley said.

He had a tearful reunion with his mother, Minnie Ola Brandley, and other relatives later and a prayer service was scheduled at the Baptist church Tuesday night.

"O good Lord!" Minnie Brandley said, sobbing and hugging her son. "Oh thank you Lord! Oh thank you Jesus!"

DeGeurin said Brandley was greeted by several prison staff members who wished him well as he left prison.

"He was shaking all over," DeGeurin said of Brandley.

"I was beginning to wonder if this day would come," the attorney said. "The hardest part was getting someone to listen in the beginning."

Conroe attorney Don Brown, who has been part of Brandley's defense team since his first trial in 1980, said he was "elated" but had "faith from the start" that Brandley's conviction would be overturned.

Brandley's first trial ended in a hung jury and he was convicted of capital murder in a second trial nine years ago.

Critics and a retired state district judge who heard evidence in the case two years ago contended racism infected proceedings against Brandley, the only black janitor at Conroe High School the day the white teen-ager was killed. The judge, Perry Pickett, recommended that Brandley receive a new trial and said new evidence suggested two other janitors were responsible for the killing.

Speers denied again Tuesday that racism played any part in the prosecution and said there was no credible evidence against any other suspects in the case.

He said he understood sexual assault charges had been filed in a neighboring county against Henry "Ickie" Peace, one of the key witnesses in the Brandley case. The crimes Peace allegedly committed were not similar enough to the violence inflicted on Fergeson to warrant additional investigation, Speers said.

He said he remains convinced Brandley was guilty of the slaying and said he is "very disillusioned" about the legal results of the case. Speers said the state appeals court decision was designed to reach a certain conclusion "rather than resolving legal issues."

Montgomery County Judge Al Stahl said he too felt the county had received a "raw deal" from the courts and he supported Speers' decision to authorize bail pending appeal.

One county official claimed the decision to release Brandley will "outrage" many residents and a Conroe policeman said it will not help racial relations in a town where relations already are strained. But another observer said most residents will be relieved "to have it over one way or the other."