

Ohio man freed in DNA case struggling to clear his name

By Jennifer Feehan - The Blade, Toledo (MCT)

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With a weather-beaten sign hanging from his shoulders, Danny Brown circles the courthouse, usually alone but always willing to talk to passers-by.

He walks to the right — only to the right, Brown says, because his is a cause of righteousness.

For a year now, Brown has shown up in rain and snow and sunshine to implore Lucas County Prosecutor Julia Bates to free him from the shadow of suspicion in a 1981 murder for which he spent almost 19 years in prison.

Brown, now 54, remains a suspect, Mrs. Bates said, despite the fact that DNA evidence implicated convicted killer Sherman Preston in the brutal attack on Bobbie Russell for which Brown was convicted.

Preston, who is in prison for the 1983 murder of a Toledo woman, was never charged in Russell's slaying, and Mrs. Bates declined to retry Brown for the murder after he was released from prison in 2001.

The charges against him were dropped.

"At what point don't you see that I'm innocent?" Brown asked. "How can you not take into consideration that I'm a human being? I've been out eight years and you're trying to tell me I'm still a suspect?"

He gets angry talking about what he sees as unjust treatment from the justice system but said he tries not to let anger get the best of him.

Brown, who has arthritis and high blood pressure, lives with his aunt and receives food stamps.

He has had a series of jobs since his release from prison but has not worked for more than a year.

It was problems getting a job and housing that led him to begin his courthouse protests last April 6.

"The stigma of being accused is one thing. The stigma of doing 19 years is another thing," Brown said.

"I don't care if you're innocent. You did 19 years in prison. You lived in a cave. You lived in prison, so you're an animal anyway. That's what people think."

Eric Ferrero, spokesman for the New York City-based Innocence Project, said Brown's plight is not unusual among the 251 individuals who have been freed from prison since 1989 due to DNA testing.

A 2009 analysis of the initial 240 inmates exonerated by DNA showed that 40 percent had received no compensation or services. Of the 60 percent who were compensated either under state compensation law or a civil rights lawsuit, they waited an average of three years to receive any money.

"After people are out of prison, problems manifest themselves in a lot of ways," Ferrero said. "The experience of being wrongfully convicted is so unique and so impossible to imagine unless you're in it that everyone experiences it differently."

The sign Brown carries states the facts of his case as he sees them: "13 witnesses. No physical evidence. Lie detector test. DNA. What does it take?"

Mrs. Bates said it certainly takes more.

She said she cannot discard the “crucial” testimony provided by the lone witness to the murder — the victim’s then-6-year-old son, Jeffrey. The youngster said then and continues to maintain it was Danny Brown who killed his mother.

“[Investigator] Tom Ross went out to see him in the last year,” Mrs. Bates said. “He’s a grown-up now. He has a memory he’s never going to forget.”

Asked if she thinks Brown killed Russell, Mrs. Bates said yes.

“I do,” she said. “I don’t think little kids lie.”

Still, Mrs. Bates said, she cannot put her belief before a jury without evidence and testimony that would prove it beyond a reasonable doubt. Much of the evidence linking Brown to the crime is circumstantial — he’d had a casual relationship with Russell, he’d been to her Birmingham Terrace apartment on several occasions, he could have known where she kept the key.

Mrs. Bates said her office continues to investigate the murder and has turned up new evidence in recent years, although she declined to say what it was.

“There are so many questions,” Mrs. Bates said. “When we can’t answer the questions, we can’t ask a jury to try the case.”

It bothers Brown that because of the position of trust she’s in, Mrs. Bates’ words carry weight, but his do not.

He says his one-man protest — an awareness campaign, he calls it — is about more than his case. It’s about all the people who have been convicted by police and prosecutors who want to clear a case rather than find the truth.

“Not freeing me’

Brown has stacks of newspaper clippings about defendants who were wrongfully convicted. He doesn’t think people realize the extent of the problem.

“This is a crazy one, ‘DNA clears inmate who dies of cancer.’ He died in jail for a crime he didn’t commit,” Brown said, shaking his head. “This is another one. This is what I’m saying, ‘DNA collars one man, frees another after 20 years,’ and that’s my situation, but it’s not freeing me.”

He frequently brings up the case of the Duke University lacrosse players who were falsely accused of sexually assaulting a stripper in 2006. Not only were the charges dropped against the young men, but the prosecutor was disbarred for misconduct in the case.

When the charges were dropped, one of the accused players, Reade Seligmann, said the experience had opened his eyes “to a world of injustice I never knew existed. If police officers and a district attorney can systematically railroad us with absolutely no evidence whatsoever, I can’t imagine what they’d do to people who do not have the resources to defend themselves.”

Brown said that’s the category into which he falls.

He believes his trial was unfair, and after years of studying the law in prison, he filed his own appeal in an attempt to reopen his case.

He claimed, among other injustices, that the prosecutor told the jury repeatedly that he had raped and sodomized the victim even though he was not charged with rape.

Brown said those accusations and other statements by the prosecution went unchallenged by his attorney and were not emphatically argued by his appellate counsel. His motion to reopen the case was denied.

Out of options

Today, his former attorney, Jon Richardson, said Brown has exhausted all his legal options.

Richardson was appointed by the court to represent Brown in his original murder trial and worked with the nonprofit Centurion Ministries to push for the DNA analysis that led to Brown's release from prison. He also unsuccessfully pursued a wrongful imprisonment lawsuit on Brown's behalf.

The 6th District Court of Appeals upheld dismissal of the suit, saying there was not enough evidence to remove Brown as a suspect in the Russell case and therefore he was not eligible for compensation under Ohio law.

"I'm sad to see that he has to be out there," Richardson said. "Everything that is doable in the legal sense has been done. He has been exonerated. The DNA and the polygraph exonerated him. We know Danny Brown did not commit this crime. We know that Sherman Preston did. The part that takes Danny out on that corner is he cannot recover from the Court of Claims for the 19 years he was imprisoned."

He said he knows Brown is looking for more than compensation, though.

"It isn't just the money," Richardson said. "Danny wants full vindication, and he considers Julie's refusal to say it is once and for all over, to be a cloud over his head."

While Mrs. Bates said she believes it would be more productive for Brown to use his time helping other inmates, mentoring juvenile delinquents, even investigating the Russell murder on his own, Brown said he will continue his vigil at the courthouse for as long as it takes.

"It might be five or 10 years, but I'm going to do it, and I'm going to talk about the issues that go along with it while I'm doing it," Brown said. "One of the main things is I want people to understand is that we have to take responsibility for our rights as citizens."

"The Constitution is maintained by the diligent work of the citizens of every community in America, and we can only maintain it by making sure that we hold public officials accountable for the things that they do."