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SUMMARY OF ROBERT CLARK CASE

For almost a quarter of a century, Robert Clark adamantly proclaimed his innocence and maintained that his conviction for abduction and rape was the result of a mistaken eyewitness identification. Having entered prison at age twenty-one, he spent his entire adult life in prison for a crime he did not commit. His conviction was predicated on the victim's identification of him and semen recovered in the victim's rape kit. In 1982, when he stood trial, DNA testing was unavailable. Now, court ordered post-conviction DNA testing shows that the sperm from the victim's rape kit, which was attributed to the rapist at trial, comes from someone other than Mr. Clark.

One week after the crime, Robert Clark was seen driving the victim's car. The officer who arrested Mr. Clark for possession of the stolen vehicle did not consider him a suspect in the rape because of the gross disparity in height between Mr. Clark and the victim's description of the assailant. (The victim, who is 5'6", reported to police that the assailant was just a little taller than her, about 5'7"; Mr. Clark is over 6'1").

After his arrest, Mr. Clark told police that he obtained the car from a friend, Floyd Antonio ("Tony") Arnold. A defense witness testified that she saw Mr. Arnold driving a car similar to the victim's even before Mr. Clark was seen driving the car. Police made no attempt to follow up on Mr. Arnold, despite the fact that, at 5'5- 5'6", Mr. Arnold more closely resembled the victim's initial description of the man who abducted and raped her.

According to the Georgia Department of Corrections website (www.dcor.state.ga.us/), several years after Mr. Clark's conviction, in 1985, Tony Arnold was convicted of sodomy. He was convicted of cruelty to children in 2003 and, as of November 2005, was scheduled to be released from prison at the end of January 2006.

The Crime and Investigation

On July 30, 1981, at about 7:30pm, the victim was abducted from the parking lot of a Kentucky Fried Chicken in East Atlanta. A man, armed with a gun, approached her car and forced his way inside. He threatened to kill her, and then drove her to two secluded locations in Cobb County, where he beat her, raped her three times and bound her hands and feet. The assailant took the victim's jewelry, gagged her, left her naked and drove away in her car. The victim managed to partially untie herself and to summon help from a passing car. The police were immediately notified and she was transported to Cobb General Hospital, where a rape kit was collected.

After leaving the hospital, the victim went to the Cobb County Police Department and gave a statement regarding her attack. The victim, who is 5'6" and weighed 127 pounds, told police that the man who attacked her was about 5'7" and weighed about 120 pounds. In other



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words, she reported that the assailant was just a little bit taller and a little thinner than she was. She also reported that the assailant had a high afro, medium complexion (lighter than her own), thin face and that his teeth kind of “budded” out or were broken. She also reported that the assailant had on faded blue jeans, a light colored shirt, and a western-style hat with a feather on the front.

Several days after the attack, on August 4th, the victim spotted her car outside of a store in Atlanta; she saw a man leaving the store who she thought might have been going to her car. By the time she notified the Atlanta Police Department (“APD”), her car and the man were gone. Two days later, on August 6th, the victim spotted her car again at an apartment complex on Prior Street. As she passed by the complex, she saw a man parking her car, with a woman and children inside. She summoned the police and returned to the complex with an officer. Her car was still there and, according to the victim, there “was a guy and some kids sitting up in my car.” As the officer walked toward the apartment building to find an address so he could call for back up, the man and children got out of the car and left.

APD officers impounded the car and the following day, on August 7th, canvassed the neighborhood. Officers spoke with two people who said “that Robert Clark, a black male, twenty-one years of age, approximately 6’2”, clean shaven, thin build, had been driving the vehicle, that he had left it there on the day it was impounded.” Police called Mr. Clark several times. He agreed to meet with them regarding the stolen vehicle, but failed to appear. On August 23rd police executed a motor vehicle theft warrant for Mr. Clark, arriving at his mother’s house at approximately 3:30am. He was arrested for possession of the victim’s stolen vehicle, and initially, police did not consider him a suspect in the kidnapping and rape since, according to the arresting officer, “[t]he initial description of the perpetrator was of a person shorter in stature than Robert Clark. . . my lookout was for a person shorter than six feet one and a half, or whatever height Mr. Clark is.”

However, Mr. Clark became a suspect after he admitted to police that he was driving the car in question on August 6th and was untruthful about how he got the car. Mr. Clark initially claimed that he got the victim’s car from a woman he met, a dancer at the Gas-Light Lounge on Luckie Street. He later told Detective R.B. Kelly, the lead officer on the case, that he actually got the car from a friend that he was trying to protect, named Tony Arnold. But, by then it was too late – the victim had already identified him.

The Identification

Several days after her attack, the victim had gone to the APD and looked through mug books in an effort to identify her assailant. She selected the photograph of a man (someone other than Mr. Clark), stating he looked like the man who attacked her. On August 25, 1981, after Mr. Clark was found with her vehicle, the victim was shown his picture in a photo array. She selected his photograph as “...looking very much like the person that committed the crimes” and did not positively identify him at this first viewing.



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Three days later, on August 27th, the victim identified Mr. Clark after seeing him for a second time, in an in-person line up. No one else besides Mr. Clark appeared in both the photo array and physical line-up.

The Trial

After a jury trial before Judge Gary B. Andrews, on May 26, 1982 Robert Clark was convicted of kidnapping with bodily injury, rape and armed robbery. The victim testified there was no doubt in her mind that Robert Clark was the person who kidnapped, raped and robbed her. She testified: "I will never forget the face, the color skin, and his voice."

The State also used serological evidence. A forensic scientist from the Georgia Bureau of Investigation ("GBI") testified that microscopic examination of vaginal slides from the victim's rape kit revealed sperm. While the State introduced the sperm to show that the perpetrator ejaculated, ABO blood typing – a test commonly used before the advent of DNA to include or exclude a suspect– could not be performed on the sperm because the vaginal swabs from the victim's rape kit were lost prior to trial. All that remained in the rape kit were the vaginal slides, which contained an insufficient amount of sperm for blood typing. If the vaginal swabs had not been lost, there may have been enough sperm evidence to exclude Mr. Clark through serological testing and avoid this entire tragedy.

The defense maintained that Robert Clark was misidentified and that he got the car from Floyd Antonio ("Tony") Arnold, who more closely resembled the victim's initial description and perhaps was the true perpetrator of the crime. Detective Kelly admitted on cross-examination that he made absolutely no attempt to follow up on Mr. Clark's statement that he got the car from a friend named Tony Arnold. The single defense witness, Tracy LaVerne Lee, testified that in the beginning of August 1981, she saw Tony Arnold driving a maroon Cutlass (the same color and make of the victim's car). Ms. Lee testified that the car stood out to her because she had never seen Tony Arnold in a car before, he did not have a job and she did not think he could afford a car. Ms. Lee testified that Tony Arnold was about 5'5"-5'6" and 115-120 pounds, which was much closer to Ms. Tucker's height (5'6") and her initial description of the assailant (5'7", 120 pounds) than Mr. Clark, who was significantly taller (6'1"). During trial, Tony Arnold -- who was then incarcerated at Middle Georgia on an unrelated burglary charge -- was brought to court and identified by Ms. Lee.

The jury convicted Mr. Clark of kidnapping with bodily injury, rape, and armed robbery. When the court sentenced Mr. Clark to life imprisonment plus twenty years, he cried out: "Your honor, they had Tony here. I can't put him on the stand. He'll tell you I didn't do nothing but drive the car two weeks later. Y'all got him right here."



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Post-Conviction DNA Test Results and CODIS Hit

Mr. Clark first attempted to obtain DNA testing in the late 1990s. He wrote to the Innocence Project asking for help. The Innocence Project took on Mr. Clark's case in October 2003 and on December 18, 2003, along with local counsel, the Georgia Innocence Project, filed a motion for DNA testing under the State's then new DNA access statute, O.C.G.A. § 5-5-41(c). The District Attorney's office filed opposition papers with the court and litigated against Mr. Clark's right to DNA testing. After the court granted testing, the State brought a successful challenge to Mr. Clark's choice of laboratory.

In July 2005, the victim's vaginal slide was submitted to Serological Research Institute ("SERI"). SERI completed testing in November 2005. The DNA results showed to a scientific certainty that the sperm recovered in the victim's rape kit did not come from Robert Clark. The Innocence Project immediately asked the District Attorney's Office to conduct a search of the profile in CODIS, the state and federal convicted offender DNA databases.

The CODIS search was successful in matching the unknown profile to Mr. Arnold, whose connection to the crime had always been suspect. Mr. Arnold's DNA profile was on file in the state's DNA databank due to his 2003 cruelty to children conviction. The IP also learned that he had been matched to two other unsolved rapes in 2003, yet had never been charged with either crime. Those two unsolved rapes were from 1993 in Fulton County and 1996 in DeKalb County. Before the exonerating DNA evidence in Mr. Clark's case came to light, Mr. Arnold was scheduled to be released from prison at the end of January 2006.

Robert Clark is the fifth person to be exonerated by DNA testing in Georgia. Each Georgia exoneration to date has also involved a mistaken eyewitness identification. The other Georgia exonerees and the years of their exonerations are as follows:

Calvin Johnson	1999
Samuel Scott	2002
Douglas Echols	2002
Clarence Harrison	2004

To read more about these cases please visit the Case Profiles section of our website:
www.innocenceproject.org/case/