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3 Seek to Overturn Verdicts in '89 Rape of Park Jogger

By SUSAN SAULNY

More than a decade after the beating and rape of a woman who was jogging in Central Park and the conviction of five teenagers in the attack, a defense lawyer is asking a judge to throw out the guilty verdicts based on a convicted murderer’s confession and newly emerged genetic evidence.

The lawyer, Michael Warren, who represents three of the people convicted in the attack, filed the motion on Friday in State Supreme Court in Manhattan. He said he planned to argue at a hearing on Monday before Justice Eduardo Padro that the confession and DNA evidence exonerate his clients, Kevin Richardson, Antron McCray and Raymond Santana. Despite the graphic confessions they initially gave to the police, the five who were convicted have maintained their innocence.

Defense lawyers have contended that the admissions by the teenagers and their subsequent statements were coerced, that laws protecting juveniles were violated, and that there was no legal justification for some of the arrests. Charges of racism also tinged the trials. All of those convicted are Hispanic or black; the victim is white. In addition, there was no strong forensic evidence linking the suspects to the crime. Prosecutors maintain that the defendants were treated properly under laws governing juvenile defendants and that the arrests were justified.

Mr. Warren obtained a prison interview last month with Matias Reyes, a convicted murderer and rapist, in which the inmate confessed he had stalked and raped the victim and claimed to have been the jogger’s sole attacker, according to the motion, which was first reported yesterday in The Daily News.

Manhattan prosecutors and law enforcement officials said that months ago Mr. Reyes, 31, confessed to raping the victim. The authorities have been investigating the claim since at least spring. Prosecutors have said that preliminary DNA tests have shown that Mr. Reyes’s genetic material is consistent with some evidence at the site of the attack, which occurred April 19, 1989.

But law enforcement officials are continuing to investigate the possibility that Mr. Reyes participated in the beating and rape before or after the teenagers attacked the woman, a 28-year-old investment banker who was so badly injured that doctors did not expect her to survive. "There’s been no final determination," Police Commissioner Raymond W. Kelly said yesterday.

Prosecutors have always said that more than 30 youths were involved in attacks that night on several people in the park. They have said that as many as 12 took part in the rape and assault of the jogger.

Barbara Thompson, a spokeswoman for the Manhattan district attorney, confirmed that the investigation was continuing, but would not comment on the genetic evidence or on Mr. Reyes’s confessions. Mr. Warren said the others convicted in the attacks, Yusef Salaam and Kharey Wise, and their lawyers support his motion and that they might soon join the court action.

It is unclear what impact, besides possibly clearing their names, overturning the convictions would have. All but one of the men have finished serving time.
DNA in Central Park Jogger Case Spurs Call for New Review

By ROBERT D. McFADDEN and SUSAN SAULNY

Semen found on the sock of the victim in the notorious Central Park jogger case 13 years ago has been conclusively linked by DNA tests to a convicted murderer-rapist serving a life term in an prison upstate, a law-enforcement official familiar with a sweeping new investigation of the case said yesterday.

The official, who spoke on the condition of anonymity, said that the DNA tests proved beyond question that the convict, Matias Reyes, 31, had raped the jogger, who was found battered and near death on the night of April 19, 1989, when bands of marauding youths attacked nine people at random in the park.

But the official said that the proof of Mr. Reyes's involvement did not necessarily have a bearing on the convictions of five young black and Hispanic men who were found guilty in 1990 of attacking the 28-year-old white investment banker, largely on the basis of their own graphic, detailed confessions. All have served their sentences, though one is still in jail in an unrelated case.

Since last spring, Manhattan prosecutors have been reinvestigating the case in the light of a claim by Mr. Reyes that he alone had waylaid, raped and beaten the jogger. He said he struck her with a tree branch, dragged her into a ravine, beat her with a rock, raped her and walked away with her radio.

In recent days, lawyers for three of the five youths convicted in the case have contended that Mr. Reyes's confession — and especially his claim to have acted alone — proved that their clients had been wrongfully convicted. They insisted that the youths' confessions had been coerced, and noted that no DNA or other conclusive forensic evidence against them had ever been produced.

The defendants were "manipulated through psychological coercion," Michael W. Warren, a lawyer who represents Kevin Richardson, Antron McCray and Raymond Santana, said at a news conference yesterday.

He said the confessions of his clients, and of Yusef Salaam and Khaery Wise, who were also convicted, had been scripted by detectives and bore contradictions that should have been "red flags" to prosecutors.

Mr. Warren has filed a motion in State Supreme Court in Manhattan seeking to have the verdicts dismissed on the basis of Mr. Reyes's confession and other new evidence, including the DNA findings. He plans to present his case at a hearing on Monday before Justice Eduardo Padro.

Roger Wareham, another lawyer representing Mr. Richardson, Mr. McCray and Mr. Santana, compared the case yesterday to that of the Scottsboro Boys, nine black teenagers who became national symbols of racism in the 1930's after they were charged in Alabama with raping two white women, one of whom recanted.

In the Central Park case, the victim survived but lay in a coma for 12 days and, after awakening, had no memory of the attack and was unable to provide details or identify any suspects. Now 41, she is married, lives in Connecticut and is writing a book about her life.

As the victim of a sex crime, she was never identified publicly, but is expected to disclose her name in the book.

Prosecutors have always said that some 30 youths were involved in attacks on people in the park that night, and have said that as many as 12 had joined in the assault on the jogger.

While DNA was a crude scientific tool in 1989, it was good enough, experts said, to exclude the five principal suspects. However, because DNA found in the cervix of the jogger had no match among the suspects, prosecutors acknowledged that at least one unknown attacker had got away.

The five youths eventually convicted in the attacks were picked up in the park on the night of the attacks and later made what prosecutors called self-incriminating statements, in writing and on videotape, in the presence of their parents or other adult relatives, and after being offered — and refusing — immediate access to lawyers.

These statements proved to be powerful evidence. They spoke of wilding in the park, randomly attacking people. None of the five admitted raping the woman, but the youths accused one another of kicking her, hitting her with a rock or a pipe and holding her down while others assaulted her. Mr. Reyes’s name was not mentioned in any of the statements.

The defendants, all but one under 16 at the time of the crime, were prosecuted as juveniles. Mr. McCray, Mr. Santana and Mr. Salaam were sentenced to 5 to 10 years for rape and assault; Mr. Richardson was convicted of attempted murder, rape and sodomy and received 5 to 10 years, and Mr. Wise was convicted of assault and sexual abuse and was given a term of 5 to 15 years.

Months after the Central Park attack, Mr. Reyes was arrested in the rape and murder of a 24-year-old pregnant woman on the Upper East Side. In October 1991, he pleaded guilty to that crime and to three other rapes and was sentenced to 33 1/3 years to life in prison.

Last spring, saying he had found God and felt compelled to confess, Mr. Reyes told the authorities that he had raped the Central Park jogger. His assertions were taken seriously because prosecutors knew that DNA found on the victim had never been identified.

The confession prompted an extensive review of the case by investigators for the Manhattan district attorney, Robert M. Morgenthau, in which witnesses and evidence still available after 13 years was re-examined. Among other things, investigators learned that hair found on Mr. Richardson was not the jogger’s, as prosecutors had contended at his trial. In addition, blood found on a stone with which she was said to have been struck was found to be someone else’s.

Last June, a senior prosecutor said that preliminary DNA tests had shown that Mr. Reyes’s genetic material was consistent with some of the evidence at the scene of the attack but that a conclusive match had not yet been found.

The conclusive link has now been established between Mr. Reyes’s DNA, which had been placed in a state databank after his conviction, and the DNA found in the semen on the jogger’s sock. But proof that he raped the jogger may have no practical legal effect on Mr. Reyes because a five-year statute of

http://www.nytimes.com/2002/09/06/nregion/06JOGG.html?todayheadlines=&pagewanted=... 9/6/02
limitations for prosecuting nonhomicide cases ran out long ago.

Moreover, the discovery of Mr. Reyes’s role may or may not have a bearing on the validity of the five convictions in the case. That could depend on whether any links are found between Mr. Reyes and the convicted men.

"The DNA shows he was involved in the rape of the jogger," the official said of Mr. Reyes. "But it is unlikely that he was acting alone, or that he was the only one. We don’t really know if he was with the others. He may have grabbed her and then they came along, or they may have grabbed her and then he came along. We may never know."

Mr. Warren took another view. "There is no DNA match with any of the defendants," he said yesterday. "Yet there is a DNA match to Mr. Reyes. These are significant facts."

And he quoted Mr. Reyes as saying, in a July interview at the Clinton Correctional Facility with a private investigator Mr. Warren had sent, that he had been "the sole rapist."

"Reyes stated that he acted alone during this entire incident, that no one else was there, and that he does not know any of the defendants," Mr. Warren said in his court papers.