

Clay Bennett Released After Three Years Imprisonment For Rape That Never Happened



Clay Bennett the day
of his release.

Clay Bennett lived with a woman and her 7-year-old daughter in Greenport, New York from June 2001 until December 2001. More than two years later the girl's mother complained to the police that Bennett sexually abused her daughter. After the girl was questioned by authorities, Bennett was indicted in 2004 for two alleged sexual assaults identified only as occurring "on or about and between June of 2001 and December of 2001."

Bennett refused to plea bargain, asserting the events never happened. Preparation of his defense was hampered by the lack of specificity as to when during the seven-month period of time the incidents allegedly occurred. The prosecution's case solely hinged on the girl's claim since there was no corroborating witness or medical evidence. To the contrary, a medical examination of the girl after she made the accusation determined she was still a virgin.

Waiving his right to a jury trial, during Bennett's 2005 bench trial the girl testified that the two incidents occurred during the winter. That was different than the indictment's allegation that they occurred within "two weeks" of each other "while it was warm out." The girl, then 11, was unable to be more precise as to when the incidents allegedly occurred – which she said happened while her mother was away from home on errands with her brother.

Although Bennett was unable to provide an alibi because he didn't even know what month the incidents allegedly occurred, he did present evidence that after he split-up with the woman he was awarded a six-figure personal injury settlement. The suggestion was that could have motivated the mother to encourage her daughter to lie in the hope of collecting money damages from Bennett.

In spite of the conclusive medical evidence that the girl was a virgin more than two years after she alleged Bennett vaginally raped her on two separate occasions, and that she could not even identify the month of the alleged incidents, the judge convicted Bennett of first-degree rape, sodomy and sexual abuse. Bennett was sentenced to a minimum of 20 years in prison.

Prior to Bennett's trial his attorney filed a motion to dismiss the indictment. The motion asserted Bennett's due process right to notice of the charges against him was prejudicially violated by the unreasonable seven-month time frame during which the acts allegedly occurred. The motion's denial by the trial judge was a key issue of Bennett's direct appeal.

On December 9, 2008 New York's Court of Appeals reversed Bennett's convictions and ordered dismissal of the indictment. In a published decision the Court ruled "the seven-month time frame cannot be found to be reasonable, "when weighed against the imperative notice rights of the defendant." (*People v Clay Bennett*, 2005-06365 (NY 2nd Appellate Div - 12-9-2008)) The Court explained, "Where an indictment charges a time interval which is so large that it is virtually impossible for a defendant to answer the charges and prepare a defense, dismissal should follow even though the People have acted diligently and a shorter time period cannot be alleged." The Court also ruled that the lack of notice to Bennett of when the alleged crimes occurred was compounded by his arrest and indictment which "did not occur until more than two years after the latest date specified for the crimes."

On the morning of December 17 – eight days after the Court's decision – a guard at the Cocksackie Correctional Facility told Bennett he was being immediately released. A few hours later the 37-year-old Bennett told reporters during an impromptu press conference of his disbelief at being released, "I still feel like I have shackles on." After describing his experience of constantly being given a hard time by guards and other prisoners because he was a convicted child rapist, he said, "Does that make me bitter? It makes me very bitter. It makes me angry." Bennett commented about the girl and her mother, "I would love them to come forward and tell the truth. Even then, they can't be forgiven."

Attorney John Ray represented Bennett during both his trial and his appeal. Ray told reporters after Bennett's release from more than three years of imprisonment, "I've rarely seen justice miscarried as badly as this. It is unfortunate that our system fails us significantly in finding men like Clay Bennett guilty just because a child says so. Clay Bennett did nothing wrong. He never touched this little girl."

Additional Sources:

Wrongful convict freed in rape case is 'bitter', *Newsday* (New York), December 18, 2008.

Convicted sex offender free on appeal, *WABC-TV* (New York, NY), December 18, 2008.

Hilary Swank Starring In Kenneth Waters Movie

Two-time Academy Award winner Hilary Swank is starring in a movie about Betty Anne Waters' 18-year effort to free her brother Kenneth Waters from his wrongful 1983 conviction for robbery and murder. Kenneth was sentenced to life in prison in Massachusetts.

Betty was a single mother and she went to law school in order to help free her brother who she believed was innocent. After she graduated from law school she became her brother's lawyer. Betty then miraculously discovered that biological evidence in his case had been preserved in the courthouse basement. DNA testing of the evidence excluded Kenneth as the murderer, and he was freed in 2001 after 18 years of imprisonment.

Swank is starring as Betty, and the film is tentatively titled "Betty Anne Waters." Sam Rockwell is starring as Kenneth Waters, and Minnie Driver is co-starring as one of Betty's friends. Tony Goldwyn is directing the film for Omega Entertainment, and Swank is the executive producer. Filming began in February 2009. The tentative release date is late 2009.

Source: Sam Rockwell wading in 'Waters', *Hollywood Reporter* (THR.com), February 11, 2009.

American Violet Premieres In Hearne, TX

On November 2, 2000, 27 innocent people were arrested in Hearne, Texas on felony drug charges. Hearne is about 120 miles northwest of Houston. The charges were based on information provided by a single informant, with no corroborating witness, or audio or video surveillance evidence.

Assisted by the ACLU, attorney David Moore discovered serious flaws in the defendant's cases, including that Robertson County DA John Paschall promised the informant felony drug charges would be dismissed against him if he produced 20 arrests. The charges were dismissed against the 20 defendants who didn't plead guilty before discovery of evidence the drug cases had been made-up by the informant.

One of the people charged was Regina Kelly, a 24-year-old single mother working as a waitress. *American Violet* is a major studio movie that revolves around Kelly's story of being caught up in the nightmare of a wrongful prosecution. The movie stars veteran actor Will Patton as Moore. Its world premiere was in Hearne on March 17, 2009, and it is being released in theaters nationwide in mid-April.