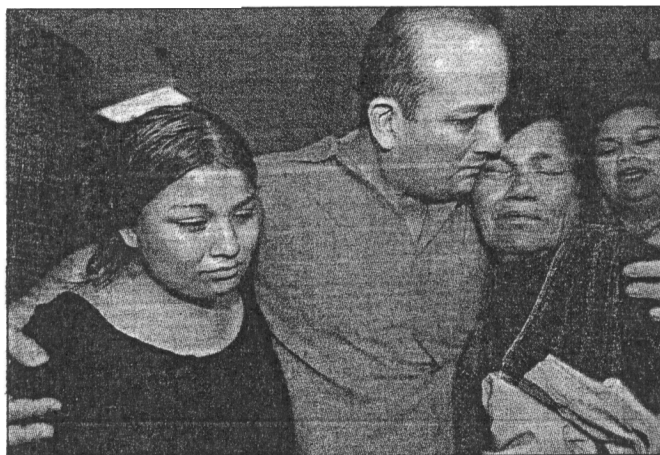


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STEVE UECKERT : CHRONICLE

REUNION: George Rodriguez walks to freedom Friday with his niece, Beatrice Onofre, left, and his mother, Mary Rodriguez.

DNA sets inmate free after 17 years

■ But Houstonian may face new trial in 1987 rape case

By **STEVE MCVICKER**
HOUSTON CHRONICLE

After 17 years in prison for a kidnapping and rape that DNA evidence now indicates he did not commit, George Rodriguez walked out of jail a free man Friday — for the time being.

Harris County prosecutors, who say they may retry Rodriguez, had asked that his bail be set at \$30,000 on each of

the charges, an amount that would have been prohibitive for his family.

State District Judge Belinda Hill waived the fee, however, and ordered Rodriguez released on his own recognizance. Her decision immediately brought tears from some of the half-dozen members of his family who were in the courtroom.

As he awaited his discharge later at the County Jail, Rod-

*Please see **FREED**, Page A14*

Newfound freedom tastes like fried shrimp.
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FREED: One of first things Rodriguez wanted to do was visit his father's grave

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rodriguez, 43, fought to hold back his own tears during an interview as he spoke about plans to visit his father's grave.

"I want to go see my dad," he said.

Leon Castro Rodriguez died last month, but Texas prison officials did not allow his son a furlough to attend the funeral despite widespread publicity about tests that indicated his likely innocence.

Conflicting evidence

Rodriguez was sentenced to 60 years in prison in 1987 for the kidnapping and rape of a 14-year-old girl in a neighborhood near the Houston Ship Channel. A man who confessed to having taken part in the attack, however, told police then that Isidro Yanez, who has a history of violence and recently was released after serving a prison sentence for another crime, was his accomplice.

Time sheets also indicated that Rodriguez had been at his job when the girl was snatched off the street and sexually assaulted.

Nevertheless, based on the victim's repeated identification of Rodriguez as one of her attackers, police focused on him. No charges were filed, however, until the now-discredited Houston Police Department crime laboratory identified a pubic hair found in the victim's panties as coming from Rodriguez.

DNA tests on the hair earlier this year by a private lab ruled out Rodriguez and pointed to Yanez as the likely source.

District Attorney Chuck Rosenthal said recently that Yanez cannot be prosecuted for the 1987 attack because the statute of limitations has expired.

Also this year, at the behest of the Innocence Project of New York after it was contacted by Rodriguez, six nationally known forensic experts reviewed trial testimony by former DNA lab chief James Bolding. They concluded that Bolding wrongly excluded Yanez as a possible source of semen collected during the rape examination.

Bolding retired rather than be fired last year, and a special master will soon be appointed to investigate widespread problems at the crime lab.

The DNA division of the lab has been shuttered for almost two years after revelations about incompetent employees and substandard working conditions that could have contaminated evidence.

Rodriguez is the second man in the past 19 months to be released from a Texas prison because of faulty work by the HPD lab. In March 2003, Josiah Sutton was freed after new DNA tests showed that he had not committed the rape for which

he served almost five years behind bars.

Unlike Sutton — who received a pardon from Gov. Rick Perry — Rodriguez may be prosecuted a second time.

"I can't believe he doesn't acknowledge the truth," Rodriguez said, referring to District Attorney Rosenthal. "It's hard for me to (understand) how he feels about it. He can do whatever he wants to do, but that's not going to change that I'm innocent of this crime."

Hoping for change

Attorney Barry Scheck of the Innocence Project suggested that this is not an isolated case.

"Who knows how many other George Rodriguezes are rotting away in Texas jails and on death row?" Scheck asked.

Death row inmate Ernest Willis, 59, was freed Wednesday after authorities conceded that he did not commit the crime for which he was condemned — and that the West Texas house fire that killed two women may not have been deliberately set at all.

Willis, like Rodriguez, spent 17 years in prison.

During Rodriguez's bond hearing Friday morning, his local attorney and prosecutors from the district attorney's office presented Judge Hill with several findings of fact.

They disagreed on only one, but it generated acrimony from Houston attorney Mark Wawro.

Wawro noted that Rosenthal earlier had stated that the jury verdict had "almost certainly" been influenced by the faulty scientific testimony.

So Wawro was not pleased Friday when Assistant District Attorneys Bill Hawkins and Jack Rody insisted on changing the language in the findings of fact to read "it is possible" the jury was affected by the testimony.

"I think that's a flip-flop of the biggest order, and I'm really disappointed in the district attorney," said Wawro, who acquiesced to the change for the time being so that Rodriguez could go free.

Hawkins disagreed.

"Mr. Wawro was concerned about the weight that the jury gave the scientific testimony," he said. "And you just don't know. So that's why we thought it appropriate to have the word 'possibly' in there."

In his closing argument in the 1987 trial, Hawkins told jurors the scientific evidence was "what really nails this man to the wall even more than the victim's description does."

The district attorney's office has not announced any timetable for deciding whether to put Rodriguez back on trial. Rodriguez also is appealing his conviction to the Texas Court of Criminal Appeals.

steve.mcvicker@chron.com