

## Free after 35 years: DNA clears Florida inmate

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James Bain talks to the media during a news conference outside the Polk County Courthouse Thursday, Dec. 17, 2009 in Bartow, Fla. Bain was released Thursday after spending 34 years in prison for a 1974 rape conviction when new DNA evidence exonerated him. (AP Photo/Steve Nesius)

(AP) -- For years, James Bain insisted he was home watching TV with his twin sister when a 9-year-old boy was kidnapped and raped.

The victim had picked him out of a lineup, and his repeated pleas for [DNA](#) testing were rejected until the Innocence Project of Florida got involved in his case earlier this year.

On Thursday, he was finally set free. He made his first-ever cell phone call, to tell his elderly mother he was out of prison after 35 years behind bars for a crime he did not commit.

As Bain walked out of the Polk County courthouse, wearing a black T-shirt that said "not guilty," he spoke of his deep faith and said he does not harbor any anger.

"No, I'm not angry," he said. "Because I've got God."

His wants now are simple: fried turkey, Dr Pepper and maybe going back to school.

The Innocence Project says the 54-year-old has spent longer behind bars than any of the other 246 inmates exonerated by DNA nationwide.

In 1974, Bain was sentenced to life in prison for the kidnapping and rape of the boy in a field. Scientists had not yet developed the sophisticated [DNA testing](#) that officials more recently used to determine he could not have been the rapist.

"Nothing can replace the years Jamie has lost," said Seth Miller, a lawyer for the Innocence Project, which helped Bain win freedom. "Today is a day of renewal."

Before Bain, the longest-serving inmate exonerated by DNA was James Lee Woodard of Dallas, who was released last year after spending more than 27 years in prison for a murder he did not commit.

Friends and family surrounded Bain as he left the courthouse Thursday after Judge James Yancey ordered him freed. His 77-year-old mother, who is in poor health, preferred to wait for him at home. With a broad smile, he said he looks forward to spending time with her and the rest of

his family.

"That's the most important thing in my life right now, besides God," he said.

Earlier, the courtroom erupted in applause after Yancey ruled.

"Mr. Bain, I'm now signing the order," Yancey said. "You're a free man. Congratulations."

After the Innocence Project got involved in Bain's case, a judge finally ordered the DNA testing and results from a respected private lab in Cincinnati came in last week, setting the wheels in motion for Thursday's hearing.

Bain was convicted largely on the strength of the victim's eyewitness identification, though testing available at the time did not definitively link him to the crime. The boy said his attacker had bushy sideburns and a mustache. The boy's uncle, a former assistant principal at a high school, said it sounded like Bain, a former student.

The boy picked Bain out of a photo lineup, although there are lingering questions about whether detectives steered him.

The jury rejected Bain's story that he was home watching TV, an alibi his sister repeated at a news conference last week. He was 19 when he was sentenced.

Ed Threadgill, who prosecuted the case originally, said he didn't recall all the specifics, but the conviction seemed right at the time.

"I wish we had had that evidence back when we were prosecuting cases. I'm ecstatic the man has been released," said Threadgill, now a 77-year-

old retired appeals court judge. "The whole system is set up to keep that from happening. It failed."

Eric Ferrero, spokesman for the Innocence Project, said a DNA profile can be extracted from decades-old evidence if it has been preserved properly. That means sealed in a bag and stored in a climate-controlled place, which is how most evidence is handled as a matter of routine.

Florida last year passed a law that automatically grants former inmates found innocent \$50,000 for each year they spent in [prison](#). No legislative approval is needed. That means Bain is entitled to \$1.75 million.

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